S. HRG. 98-1182

WITHDRAW AND RESERVE CERTAIN PUBLIC LANDS FOR MILITARY PURPOSES

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2657

A BILL TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE AIR FORCE CERTAIN PUBLIC LANDS WITHIN THE NELLIS AIR FORCE RANGE, WITHIN CLARK, NYE, AND LINCOLN COUNTIES, NEVADA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES

S. 2658

A BILL TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE McGREGOR RANGE, OTERO COUNTY, NEW MEXICO, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES

S. 2659

A BILL TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE AIR FORCE CERTAIN PUBLIC LAND WITHIN THE LUKE AIR FORCE RANGE, MARICOPA, PIMA, AND YUMA COUNTIES, ARIZONA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES

S. 2660

A BILL TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE FORT GREELY MANEUVER AREA, IN THE BIG DELTA AREA, ALASKA, AND CERTAIN PUBLIC LANDS WITHIN THE FORT GREELY AIR DROP ZONE, IN THE GRANITE CREEK AREA, ALASKA, FOR USE AS TRAINING AND EQUIPMENT DEVELOPMENT AREAS, AND FOR OTHER PURPOSES

S. 2661

A BILL TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE FORT WAINWRIGHT MANEUVER AREA, FOURTH JUDICIAL DISTRICT, ALASKA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES

S. 2662

A BILL TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE NAVY CERTAIN PUBLIC LANDS FOR THE BRAVO-20 BOMBING RANGE, CHURCHILL COUNTY, NEVADA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES

AUGUST 8, 1984

Printed for the use of the Committee on Energy and Natural Resources

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WITHDRAW AND RESERVE CERTAIN PUBLIC LANDS FOR MILITARY PURPOSES

TUESDAY, AUGUST 8, 1984

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop presiding.

Present: Senators Wallop, Domenici, Murkowski, and Hecht.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good afternoon. Today we will receive testimony from the administration, Senators, and the public on the following bills: S. 2657, to withdraw and reserve for the Department of the Air Force certain public lands within the Nellis Air Force range, within Clark, Nye, and Lincoln Counties, NV, for use as a training and weapons testing area and for other purposes; S. 2658, to withdraw and reserve for the Department of the Army certain public lands within the McGregor Range, Otero County, NM, for use as a training and weapons testing area, and for other purposes; S. 2659, to withdraw and reserve for the Department of the Air Force certain public lands within the Luke Air Force range, Maricopa, Pima, and Yuma Counties, AZ, for use as a training and weapons testing area and for other purposes; S. 2660, to withdraw and reserve for the Department of the Army certain public lands within the Fort Greely maneuver area, in the Big Delta area, Alaska and certain public lands within the Fort Greely air drop zone, in the Granite Creek area, Alaska, for use as a training and equipment development center and for other purposes; S. 2661, to withdraw and reserve for the Department of the Army certain public lands within the Fort Wainwright maneuver area, Fourth Judicial District, Alaska, and for other purposes; and S. 2662, to withdraw and reserve for the Department of the Navy certain public lands for the Bravo 20 bombing range, Churchill County, NV, for use as a training and weapons area, and for other purposes.

Without objection, I will place a copy of the bills in the record. We will take testimony on the withdrawals in the numerical order of the bills starting with S. 2657. The Senators having an interest in these bills will be heard as they appear. The hearing record will remain open until the 31st of August for additional statements.

I will ask the administration witnesses to come to the table as a panel and testify on the appropriate bill and if you would please identify yourself each time for the reporter.

I will ask the public witnesses to limit their testimony to 5 minutes, if they will. Their entire statement will be inserted in the record as if delivered, but we do have a time constraint on the floor this afternoon.

We were only able to sit at all because of some little bit of effort on the part of the committee staff and the committee chairman, because there was an objection to us sitting. So I would ask people please to cooperate with me on that.

I have here a statement of Senator Murkowski. He is coming. Then I will reserve that. In which case, I will ask Senator Hecht, do you have an opening statement?

[The texts of the bills follow:]

II

98TH CONGRESS
2D SESSION

S. 2657

To withdraw and reserve for the Department of the Air Force certain public lands within the Nellis Air Force Range, within Clark, Nye, and Lincoln Counties, Nevada, for use as a training and weapons testing area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, APRIL 30), 1984

Mr. MCCLURE (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To withdraw and reserve for the Department of the Air Force certain public lands within the Nellis Air Force Range, within Clark, Nye, and Lincoln Counties, Nevada, for use as a training and weapons testing area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, the lands described in subsection (b) of this section, aggregating approximately 3,034,929 acres in Clark, Nye, and Lincoln Counties, Nevada, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral and geothermal leasing laws, and are reserved for use of the Department of the Air Force as an armament and high hazard testing area, a training area for aerial gunnery, electronic warfare, tactical maneuvering and air support, and for other defense related uses consistent therewith: *Provided, however,* That except to the extent rendered necessary by national defense, this Act does not affect the National Wildlife System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.) as it applies to the Desert National Wildlife Range, any Executive order or public land order affecting the Desert National Wildlife Range, or any memorandum of understanding between the Department of the Interior and the Department of the Air Force regarding the administration and joint use of the Desert National Wildlife Range.

(b) The lands and resources withdrawn by this Act are described as follows:

MOUNT DIABLO MERIDIAN

Townships 1 to 4 south, range 44 east.

Township 5 south, range 44 east, partly unsurveyed,

Sections 1 and 2;
Sections 10 to 16 inclusive;
Sections 20 to 36 inclusive.

Township 6 south, range 44 east, unsurveyed.

Township 7 south, range 44 east, unsurveyed,
Sections 1 to 5 inclusive;
Sections 8 to 16 inclusive;
Sections 22 to 26 inclusive;
Sections 35 and 36.

Township 8 south, range 44 east, unsurveyed,
Section 1.

Townships 1 to 4 south, range 45 east.

Townships 5 to 7 south, range 45 east, unsurveyed.

Township 8 south, range 45 east, unsurveyed,
Sections 1 to 18 inclusive;
Sections 20 to 27 inclusive;
Sections 35 and 36.

Townships 1 and 2 south, range 46 east, unsurveyed.

Townships 3 to 8 south, range 46 east, unsurveyed.

Township 9 south, range 46 east, unsurveyed,
Sections 1 to 6 inclusive;
Sections 8 to 15 inclusive;
Sections 23 and 24.

Townships 1 and 2 south, range 47 east.

Townships 3 and 8 south, range 47 east, unsurveyed.

Township 9 south, range 47 east, unsurveyed,

Sections 1 to 30 inclusive;

Sections 33 to 36 inclusive.

Township 10 south, range 47 east,

Sections 1, 2, and 12.

Townships 1 and 2 south, range 48 east.

Townships 3 to 9 south, range 48 east, unsurveyed.

Township 10 south, range 48 east, unsurveyed,

Sections 1 to 17 inclusive;

Sections 21 to 26 inclusive;

Section 36.

Townships 1 and 2 south, range 49 east.

Townships 3 to 7 south, range 49 east, unsurveyed.

Township 8 south, range 49 east, unsurveyed,

Sections 1 to 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive;

Sections 12, 13, 24, 25, 36, exclusive of those portions withdrawn by PLO 2568.

Township 9 south, range 49 east, unsurveyed,

Sections 2 to 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive;

Sections 1, 12, 13, 24, 25, 36, exclusive of those portions withdrawn by PLO 2568.

Township 10 south, range 49 east, unsurveyed,

Sections 2 to 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive;

Sections 1, 12, 13, 24, 25, 36, exclusive of those portions withdrawn by PLO 2568.

Township 11 south, range 49 east, unsurveyed,

Sections 2 to 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive;

Sections 1, 12, 13, 24, 25, 36, exclusive of those portions withdrawn by PLO 2568.

Township 12 south, range 49 east, unsurveyed,

Sections 2 to 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive;

Sections 1, 12, 13, 24, 25, 36, exclusive of those portions withdrawn by PLO 2568.

Townships 1 to 7 south, range 50 east, unsurveyed.

Township 8 south, range 50 east, unsurveyed,

Sections 1 to 6 inclusive;

Sections 7 to 12 inclusive; exclusive of those portions withdrawn by PLO 2568.

Townships 2 to 7 south, range 51 east, unsurveyed.

Township 8 south, range 51 east, unsurveyed,

Sections 1 to 6 inclusive;

Sections 7 to 12 inclusive; exclusive of those portions withdrawn by PLO 2568.

Townships 3 and 4 south, range 51 east half, unsurveyed.

Townships 3 to 7 south, range 52 east, unsurveyed.

Township 8 south, range 52 east, unsurveyed,

Sections 1 to 6 inclusive;

Sections 7 to 12 inclusive, exclusive of those portions withdrawn by PLO's 2568 and 805.

Townships 3 and 4 south, range 53 east.

Townships 5 to 7 south, range 53 east, unsurveyed.

Township 8 south, range 53 east, unsurveyed,

Sections 1 to 6 inclusive;

Sections 7 to 12 inclusive; exclusive of those portions withdrawn by PLO 805.

Township 3 south, range 54 east,

Sections 4 to 9 inclusive;

Sections 16 to 21 inclusive;

Sections 28 to 33 inclusive.

Township 4 south, range 54 east,

Sections 4 to 9 inclusive;

Sections 16 to 21 inclusive;

Sections 28 to 33 inclusive.

Townships 5 and 6 south, range 54 east, unsurveyed.

Township 7 south, range 54 east, unsurveyed,

Sections 1 to 34 inclusive;

Sections 35 and 36, exclusive of those portions withdrawn by PLO 1662.

Township 8 south, range 54 east, unsurveyed,

Sections 3 to 6 inclusive;

Sections 2, 7 to 11 inclusive; 35 and 36, exclusive of those portions withdrawn by PLO's 805 and 1662.

Township 9 south, range 54 east, unsurveyed,

Sections 1, 12, 13, 24, 25, 36;

Sections 2, 11, 14, 23, 26, 35, exclusive of those portions withdrawn by PLO 805.

Township 10 south, range 54 east, unsurveyed,

Sections 1, 12, 13, 24, 25, 36;

Sections 2, 11, 14, 23, 26, 35, exclusive of those portions withdrawn by PLO 805.

Township 11 south, range 54 east, unsurveyed,

Sections 1, 12, 13, 24, 25, 36;

Sections 2, 11, 14, 23, 26, 35, exclusive of those portions withdrawn by PLO 805.

Township 12 south, range 54 east, unsurveyed,

Sections 1, 12, 13, 24, 25, 36;

Sections 2, 11, 14, 23, 26, 35, exclusive of those portions withdrawn by PLO 805.

Township 13 south, range 54 east, unsurveyed,

Sections 10 to 15 inclusive;

Sections 22 to 27 inclusive;

Sections 34 to 36 inclusive;

Sections 9, 16, 21, 28, 33, exclusive of those portions withdrawn by PLO 805.

Township 14 south, range 54 east, unsurveyed,

Sections 1 to 3 inclusive;

Sections 10 to 15 inclusive;

Sections 22 to 27 inclusive;

Sections 34 to 36 inclusive;

Sections 4, 9, 16, 21, 28, 33, exclusive of those portions withdrawn by PLO 805.

Township 16 south, range 54 east,

Sections 1 to 3 inclusive, north half;

Section 4, northeast quarter.

Township 5 south, range 55 east, unsurveyed.

Township 6 south, range 55 east, unsurveyed.

Township 7 south, range 55 east, unsurveyed,

Sections 1 to 30 inclusive;

Sections 31 to 36 inclusive, exclusive of those portions withdrawn by PLO 1662.

Township 8 south, range 55 east, unsurveyed,

Sections 31 to 36 inclusive, exclusive of those portions withdrawn by PLO 1662.

Townships 9 to 14 south, range 55 east, unsurveyed.

Township 16 south, range 55 east,

Sections 1 to 6 inclusive, north half.

Township 5 south, range 55 east half,

Section 6, exclusive of the following described lands:

Beginning at corner numbered 1 a post marked "No. 1 U.S. Survey No. 57, Lot B" from which United States Mineral Monument numbered 5 bears north 84 degrees east at the distance of 1,155 feet and corner numbered 1, of said lot numbered 57A which bears north 61 degrees 27 minutes east at the distance of 43,680 feet; thence from said corner numbered 1, north 82 degrees west, 363 feet to corner numbered 2, a post marked "No. 2 U.S. Survey No. 57, Lot B"; thence, north 8 degrees east, 594 feet to corner numbered 3, a post marked "No. 3 U.S. Survey No. 57, Lot B"; thence south 82 degrees east 363 feet to corner numbered 4, a post marked "No. 4 U.S. Survey No. 57, Lot B"; thence south 8 degrees west, 594 feet to the place of beginning, the premises herein granted containing 4.95 acres, more or less;

Sections 7 to 8 inclusive;

Sections 16 to 21 inclusive;

Sections 28 to 33 inclusive;

Township 6 south, range 55 east half.

Township 7 south, range 55 east half, unsurveyed,

Section 4;

Sections 6 and 7;

Sections 5 and 8, exclusive of the following described lands:

Beginning with the description of the south end lode claim, at corner numbered 1, a pine post 4 inches square, 3 feet high, marked 1–4658 and 2–4658, in mound of stone, from which United States Mineral Monument numbered 315, bears north 38 degrees 34 minutes west 1,853.9 feet distant;

thence, first course, south 88 degrees 43 minutes east 301.3 feet to a point from which discovery bears south 4 degrees 15 minutes east 454.6 feet distant;

465.4 feet intersect line 1-2 of survey numbered 37, the White Lake and Conception lode claim, at north 1 degree 4 minutes east 364.5 feet from corner numbered 1; 601.3 feet to corner numbered 2, a pine post 4 inches square, 3 feet high marked 2–4658, in mound of stone;

thence, second course, south 4 degrees 15 minutes east 302.4 feet intersect line 3–4 of said survey numbered 37, at north 1 degree 4 minutes east 63.4 feet from corner numbered 4; and from corner numbered 4 corner numbered 1 bears north 88 degrees 43 minutes west 193.9 feet distant; 1,500 feet to corner numbered 3, a pine post 4 inches square, 4 feet long, marked 3–4658, in mound of stone;

thence, third course, north 88 degrees 43 minutes west 605.3 feet to corner numbered 4, a pine post 4 inches square, 4 feet long, marked 4–4658 and 3–4658, in mound of stone;

thence, fourth course, north 4 degrees 15 minutes west 1,500 feet to corner numbered 1, the place of beginning; the survey of the lode claim, as above described, extending 1,500 feet in length along said South End vein or lode;

beginning, for the description of the south end fraction lode claim at corner numbered 1, a pine post 4 inches square, 4 feet long marked 1–4658, in mound of stone, from which said United States Mineral Monument numbered 315, bears north 20 degrees 27 minutes and 20 seconds west 3,207.7 feet distant;

thence, first course, north 8 degrees 9 minutes east 327.4 feet intersect line 3–4 of said south end lode claim; 796 feet to corner numbered 2, a pine post 4 feet long, 4 inches square, marked 2–4658, in mound of stone;

thence, second course, south 3 degrees 27 minutes east 63.8 feet to a point from which discovery bears south 80 degrees 9 minutes west 302.3 feet distant; 173.3 feet to corner numbered 3, a pine post 4 inches square, 2½ feet above ground, marked 3–4658, in mound of stone;

thence, third course, south 76 degrees 47 minutes west 56.7 feet intersect the east side line of the Black Medal lode claim, unsurveyed, at south 1 degree 13 minutes east 43 feet from the northeast corner; 712.1 feet intersect the west side line of said Black Medal lode claim, at south 3 degree 24 minutes east 54.3 feet from the northwest corner; and from the northwest corner the northeast corner bears north 77 degrees 47 minutes east 655.1 feet distant; 802.7 feet to corner numbered 4, a pine post 4 inches square, 4 feet long, marked 4–4658, in mound of stone;

thence, fourth course, north 3 degrees 27 minutes west 220.7 feet to corner numbered 1, the place of beginning; the survey of the lode claim, as above described, extending 796 feet in length along said South End fraction vein or lode;

beginning, for the description of the Bride lode claim, at corner numbered 1, a pine post 4 inches square, 3 feet high, marked 1–4658, in mound of stone, from which said United States Mineral Monument Numbered 315, bears north 21 degrees 11 minutes west 1,538.9 feet distant;

thence, first course, south 88 degrees 36 minutes east 600 feet to corner numbered 2, identical with corner numbered 1 of said South End lode claim;

thence, second course, south 4 degrees 15 minutes east 1,500 feet to corner numbered 3, identical with corner numbered 4, of said South End lode claim;

thence, third course, north 88 degrees 36 minutes west 301.3 feet to a point from which discovery bears north 4 degrees 15 minutes west 895.6 feet distant; 600 feet to corner numbered 4, a pine post 4 inches square, 3 feet long, marked 4–4658, in mound of stone;

thence, fourth course, north 4 degrees 15 minutes west 1,500 feet to corner numbered 1, the place of beginning; the survey of the lode claim, as above described, extending 1,500 feet in length along said Bride vein or lode; expressly excepting and excluding from these presents all that portion of the ground hereinbefore described, embraced in said mining claim or survey numbered 37 and said Black Medal lode claim, unsurveyed, and of all veins, lodes and ledges, throughout their entire depth, the tops or apexes of which lie inside of such excluded ground; the premises herein granted; containing 42.104 of an acre.

Beginning at a post marked numbered 1, United States survey numbered 37, from which a prominent rock of point numbered 1 the southern end of a quartzite bluff, bears north 39 degrees, 9 minutes west at the distance of 2,415 feet, a butte numbered 2 in valley at the northern end of Alkali Lake, bears south 14 degrees, 30 minutes west, Emigrant Springs bears north 16 degrees, 25 minutes east. At the distance of 167 feet, and the Nome shaft bears north 19 degrees, 38 minutes west at the distance of 592 feet;

thence from said post north 2 degrees east, 3,000 feet to post marked numbered 2 United States survey numbered 37;

thence south 88 degrees east, 200 feet to post marked numbered 3 United States survey numbered 37;

thence south 2 degrees west, 3,000 feet to post marked numbered 4 United States survey numbered 37;

thence north 88 degrees west 200 feet to the place of beginning. Containing 13.77 acres of land more or less and embracing 3,000 linear feet of said White Lake and Conception lode.

Beginning at a post marked numbered 1, United States survey numbered 38; from which a prominent rocky point numbered 1, the southern end of a quartzite bluff, bears north 44 degrees, 23 minutes west at the distance of 2,057 feet, a butte numbered 2, in valley at the northern end of Alkali Lake, bears south 13 degrees west, Emigrant Springs bears south 28 degrees, 44 minutes east, at the distance of 277 feet, Nome shaft bears north 36 degrees west at the distance of 191 feet, and post numbered 1 of survey numbered 37, made for the claim of J. B. Osborne et al. upon the White Lake and Conception lode, bears south 12 degrees, 2 minutes east at the distance of 412 feet;

thence from said post numbered 1 of this claim north 88 degrees west 200 feet to post marked numbered 2 United States survey numbered 38;

thence north 2 degrees east 2,600 feet to the place of beginning, containing 11.94 acres of land more or less, and embracing 2,600 linear feet of said White Lake numbered 2 and Conception numbered 2 lode.

Section 9;

Section 16;

Section 17, exclusive of the following described lands:

Beginning at corner numbered 1, a pine post 4 feet long, 4 inches square, marked 1–4659, in mound of stone, from which United States Mineral Monument Numbered 315 bears north 15 degrees 4 minutes 30 seconds west 4,780.4 feet distant;

thence, first course, north 89 degrees east 63.8 feet intersect the west side line of the Black Medal lode claim, unsurveyed, at north 3 degrees 24 minutes west 91.5 feet from the southwest corner; 444.4 feet intersect the south end line of said Black Medal lode claim, at north 75 degrees 22 minutes east 387.7 feet from the southwest corner; 566 feet to corner numbered 2, a pine post 4 inches square, 4 feet long, marked 2–4659 in mound of stone;

thence, second course, south 2 degrees 18 minutes east 1,500.4 feet to corner numbered 3, a pine post 4 inches square, 4 feet long, marked 3–4659, in mound of stone;

thence, third course, south 89 degrees west 300 feet to a point from which discovery bears north 1 degree west 544.5 feet distant; 600 feet to corner numbered 4, a pine post 4 inches square, 4 feet long, marked 4–4659, in mound of stone;

thence, fourth course, north 1 degree west 1,500 feet to corner numbered 1, the place of beginning; expressly excepting and excluding from these presents all that portion of the ground hereinbefore described, embraced in said Black Medal lode claim, unsurveyed, and also all that portion of the Southern Groom vein or lode, and of all veins, lodes, and ledges, throughout their entire depth, the tops or apexes of which lie inside of such excluded ground; survey numbered 4659 extending 1,500 feet in length along said Southern Groom vein or lode; the premises herein granted, containing 19.676 acres;

Sections 18 to 21 inclusive;

Sections 28 to 30 inclusive;

Sections 31 to 33 inclusive, exclusive of those portions withdrawn by PLO 1662.

Township 8 south, range 55 east half, unsurveyed,

Sections 4, 9, 16, 21, 28, 31 to 33 inclusive, exclusive of those portions withdrawn by PLO 1662.

Townships 9 to 14 south, range 55 east half, unsurveyed.

Township 16 south, range 55 east half, unsurveyed,

Sections 1 and 2, north half.

Township 5 south, range 56 east, unsurveyed,

Section 19;

Section 20, exclusive of the following described lands:

Beginning at corner numbered 1, a post marked "No. 1 U.S. Survey No. 41, Lot B" from which corner numbered 1 of lot numbered 41A bears north 18 degrees 30 minutes east, at the distance of 50,370 feet, and Savioh Springs bears south 40 degrees 30 minutes west, at the distance of 244 feet;

thence from said corner numbered 1 of lot numbered 41B south 14 degrees 30 minutes east 605 feet to corner numbered 2, a post marked "No. 2 U.S. Survey No. 41, Lot B";

thence south 75 degrees 30 minutes west, 360 feet to corner numbered 3 a post marked "No. 3 U.S. Survey No. 41, Lot B";

thence north 14 degrees 30 minutes west 605 feet to corner numbered 4 a post marked "No. 4 U.S. Survey No. 41, Lot B";

thence north 75 degrees 30 minutes east 360 feet to the place of beginning, the premises herein granted, containing 5 acres, more or less;

Sections 27 to 35 inclusive.

Township 6 south, range 56 east, unsurveyed,

Sections 2 tc 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive.

Township 7 south, range 56 east, unsurveyed,

Sections 2 to 11 inclusive;

Sections 14 to 23 inclusive;

Sections 26 to 35 inclusive.

Townships 8 to 14 south, range 56 east, unsurveyed.

Township 15 south, range 56 east.

Township 16 south, range 56 east,

Sections 1 and 2;

Section 3, lots 5 to 9 inclusive, east half;

Section 4, lots 5 to 8 inclusive;

Section 5, lots 5 to 9 inclusive, northwest quarter, west half, northeast quarter;

Section 6, lots 8 and 9, northeast quarter, west half;

Section 8, lot 1;

Section 9, lot 1;

Tracts 38 to 41 inclusive;

Tracts 42 A, B, and C.

Townships 8 to 15 south, range 57 east, unsurveyed.

Township 16 south, range 57 east, unsurveyed,

Sections 1 to 6 inclusive;

Section 7, northeast quarter;

Sections 8 to 16 inclusive;

Section 17, northeast quarter;

Section 20, southeast quarter, southwest quarter, south half southeast quarter;

Section 21, northeast quarter, southwest quarter southwest quarter;

Sections 22 to 26 inclusive;

Section 27, northeast quarter;

Section 28, northwest quarter northwest quarter;

Section 29, north half northeast quarter, northeast quarter northwest quarter;

Section 35, northeast quarter;

Section 36.

Townships 8 to 15 south, range 58 east, unsurveyed.

Township 16 south, range 58 east, unsurveyed,

Sections 1 to 10 inclusive;

Sections 15 to 22 inclusive;

Sections 27 to 34 inclusive.

Township 17 south, range 58 east,

Sections 1 to 4 inclusive;

Section 5, northeast quarter;

Section 9, northeast quarter;

Section 10, north half, north half southwest quarter, southeast quarter southwest quarter, southeast quarter;

Sections 11 and 12;

Section 13, northwest quarter;

Section 14, north half, northeast quarter southwest quarter, southeast quarter;

Section 15, northeast quarter northeast quarter.

Townships 8 to 14 south, range 59 east, unsurveyed.

SEC. 2. Responsibility for management of the lands withdrawn by this Act is established as follows:

(a) The Secretary of the Air Force shall have exclusive jurisdiction over the management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense, and the Department of Energy, as appropriate—

(i) when military operations, public safety or national security, as determined by the Secretary of the Air Force, require the closure of roads and trails commonly in public use, the Secretary of the Air Force is authorized to take such action. Appropriate warning notices shall be kept posted during closures; and

(ii) the Secretary of the Air Force shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the withdrawn lands as a result of military activities. The memorandum of understanding required by section 2(c) of this Act shall provide for Bureau of Land Management cooperation on the suppression of such fires, and for a transfer of funds from the Department of the Air Force to the Bureau of Land Management as compensation for such assistance.

(b) The Secretary of the Interior shall manage the withdrawn lands and their resources, except the lands in the Desert National Wildlife Range, under principles of multiple use and sustained yield, for uses which may include, but are not limited to, grazing, management of wildlife habitat, control of predatory animals, and the prevention and suppression of brush and range fires resulting from nonmilitary activities. Except as set forth in subsection (a) of this section, the Secretary of the Interior shall also be responsible for the issuance of all cooperative agreements, easements, mineral leases, and rights-of-way over the lands hereby withdrawn and reserved. All such uses, and the issuance of all leases, easements, and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with concurrence of the Secretary of the Air Force. Within one year of the date of the enactment of this Act, the Secretary of the Interior, after consultation with the Secretary of the Air Force, shall develop, under principles of multiple use and sustained yield, a resource management plan and implementation program for the use and management of the lands withdrawn by this Act. The lands in the Desert National Wildlife Range shall be managed by the Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.), except to the extent that other uses are required for purposes of national defense.

(c) The Secretary of the Interior and the Secretary of the Air Force shall enter into a memorandum of understanding to implement the plan and program required by this section, except that they may continue in effect the March 11, 1976, memorandum of understanding, or any modification thereof, between the Department of the Interior and the Department of the Air Force covering the administration and joint use of certain portions of the Desert National Wildlife Range. The term of all memorandums of understanding shall be the same as the term of the withdrawal of the involved lands: *Provided, however,* That the provisions of the memorandums of understanding may be amended upon mutual consent of the Secretaries

SEC. 3. The withdrawal established by this Act is not intended to (a) reserve or otherwise withdraw any water for use in connection with the uses identified in the first section of this Act; (b) affect in any manner the future appropriation under State law, by the United States or others, of water in, under or upon the lands withdrawn by this Act; or (c) affect water rights acquired by the Department of the Air Force or other components of the Department of Defense prior to the enactment of this Act for use in connection with military operations at Nellis Air Force Range.

SEC. 4. (a) Except as provided otherwise in this section, the withdrawal established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the expiration of the withdrawal established by this Act, the Secretary of the Air

Force shall advise the Secretary of the Interior as to whether the Department of the Air Force will have a continuing need for any of the lands beyond the termination date—

(i) if the Secretary of the Air Force concludes that there will be a continuing need for any of the lands beyond the termination date, he shall file an application for extension of the withdrawal of such lands in accordance with the regulations and procedures applicable to the extension of withdrawals that the Secretary of the Interior has the discretionary authority to issue. In that case, the withdrawal accomplished by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawal by the Secretary of the Interior, and, where required, by the Congress; and

(ii) if the Secretary of the Air Force concludes that, beyond the termination date established by subsection (a) of this section, there will be no need for all or any of the lands withdrawn by this act, or if, during the period of withdrawal, the Secretary of the Air Force determines to relinquish all or any of the lands withdrawn under this Act, he shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(ii) of this section, the Secretary of the Air Force shall determine whether and to what extent the lands are contaminated with explosives or toxic and other hazardous materials—

(i) if the lands are contaminated, and the Secretary of the Air Force, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, he shall decontaminate the lands, unless Congress declines to appropriate funds for the project;

(ii) if the Secretaries of the Air Force and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to operation of the public land laws, or if Congress declines to appropriate funds for the decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment; and

(iii) a copy of the determination made by the Secretaries shall be supplied with the notice of intention to relinquish.

(d) If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal created by this Act, and every five years thereafter, the Secretary of the Air Force, in coordination with the Secretary of the Interior, shall reassess the withdrawal to determine whether or not decontamination of any or all of the lands is practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary of the Air Force shall decontaminate the land, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Department of the Air Force that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) If the Secretary of the Interior decides to accept jurisdiction of the lands withdrawn by this Act which are proposed for relinquishment, he shall publish in the Federal Register an appropriate withdrawal revocation order which shall constitute official acceptance of full jurisdiction by the Secretary of the Interior, shall terminate the withdrawal, and shall state the date upon which the involved lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 5. (a) The functions of the Secretary of the Air Force under this Act may be delegated.

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that a decision to accept a notice of intention to relinquish may be made, and an order pursuant to section 4(e) of this Act, may be approved and signed, only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

II

98TH CONGRESS
2D SESSION

S. 2658

To withdraw and reserve for the Department of the Army certain public lands within the McGregor Range, Otero County, New Mexico, for use as a training and weapons testing area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, APRIL 30), 1984

Mr. MCCLURE (by request) introduced the following bill; which was referred to the Committee on Energy and Natural Resources

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A BILL

To withdraw and reserve for the Department of the Army certain public lands within the McGregor Range, Otero County, New Mexico, for use as a training and weapons testing area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, the public lands aggregating approximately 608,384.87 acres in Otero County, New Mexico, as more fully described in application NM 35829 and set forth in the Federal Register of January 11, 1979 (vol. 44, No. 8, pages 2434–2437), and February 15, 1979 (vol. 44, No. 33, page 9806), are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral or geothermal leasing laws, for use by the Department of the Army as a training and weapons testing area, and for other defense related uses consistent therewith.

SEC. 2. Responsibility for management of the withdrawn lands is established as follows:

(a) The Secretary of the Army shall have exclusive jurisdiction over the management of the lands for military purposes, and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate—

(i) when military operations, public safety or national security, as determined by the installation commander, require the closure of roads and trails commonly in public use, the Secretary of the Army is authorized to take such action. Appropriate warning notices shall be kept posted during closures; and

(ii) the Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the withdrawn lands as a result of military activities. The memorandum of understanding required by section 2(c) of this Act shall provide for Bureau of Land Management cooperation in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) The Secretary of the Interior shall manage the withdrawn lands and their resources for uses which may include, but are not limited to, grazing, management of wildlife habitat, recreation, control of predatory animals, and prevention and suppression of range fires resulting from nonmilitary activities. Except as set forth in subsection (a) of this section, the Secretary of the Interior shall also be responsible for the issuance of all easements, mineral and geothermal leases, and rights-of-way over the lands hereby withdrawn and reserved. All such uses, and the issuances of all leases, easements and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with concurrence of the Secretary of the Army. Within one year of the date of the enactment of this Act, the Secretary of the Interior, after consultation with the Secretary of the Army, shall develop a resource management plan and implementation program for the use and management of the lands, under principles of multiple use and sustained yield.

(c) The Secretary of the Interior and the Secretary of the Army shall enter into a memorandum of understanding to implement the plan or program required by this section. The term of the memorandum of understanding shall be the same as the term of the withdrawal of the involved lands.

SEC. 3. All hunting, fishing, and trapping on the land shall be conducted in accordance with the fish and game laws of the State of New Mexico.

SEC. 4. (a) Seventeen acre feet per day of water located on, under, over, or appurtenant to the Federal lands withdrawn by this Act, that has not been appropriated as of the date of this Act, and that is required for future military purposes, is hereby reserved for such use by the Secretary of the Army.

(b) If the Secretary of the Army determines that it is necessary to acquire additional water in excess of the quantity identified in paragraph (a) above, he shall either—

(1) acquire the rights to such additional water in conformity with the applicable laws of the State of New Mexico relating to the control, appropriation, use, and distribution of water resources in that State; or

(2) obtain a specific reservation of additional Federal water rights from Congress.

(c) The reservation of water established by the Act is not intended to affect water rights acquired by the Department of the Army prior to the enactment of this Act.

SEC. 5. (a) Except as provided otherwise in this section, the withdrawal established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the expiration of the withdrawal established by this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether the Department of the Army will have a continuing need for any of the lands beyond the termination date—

(i) if the Secretary of the Army concludes that there will be a continuing need for any of the lands beyond the termination date, he shall file an application for extension of the withdrawal of such lands in accordance with the regulations and procedures applicable to the extension of withdrawals that the Secretary of the Interior has the discretionary authority to issue. In that case, the withdrawal accomplished by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawal by the Secretary of the Interior and, where required, by the Congress; and

(ii) if the Secretary of the Army concludes that, beyond the termination date established by subsection (a) of this section, there will be no need for all or any of the lands withdrawn by this Act, or if, during the period of withdrawal, the Secretary of the Army determines to relinquish all or any of the lands withdrawn under this Act, he shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(ii) of this section, the Secretary of the Army shall determine whether and to what extent the involved lands are contaminated with explosives or toxic and other hazardous materials—

(i) if the lands are contaminated, and the Secretary of the Army, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, he shall decontaminate the lands, unless Congress declines to appropriate funds for the project;

(ii) if the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment; and

(iii) a copy of the determination made by the Secretaries shall be supplied with the notice of proposed relinquishment.

(d) If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal created by this Act, and every five years thereafter, the Secretary of the Army, in coordination with the Secretary of the Interior, shall reassess the withdrawal to determine whether or not decontamination of any or all of the lands is practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the lands, and that upon decontamination the lands could be open to operation of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Department of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) If the Secretary of the Interior decides to accept jurisdiction of the lands withdrawn by this Act which are proposed for relinquishment, he shall publish in the Federal Register an appropriate withdrawal revocation order which shall constitute official acceptance of full jurisdiction by the Secretary of the Interior, shall terminate the withdrawal, and shall state the date upon which the involved lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 6. (a) The functions of the Secretary of the Army under this Act may be delegated.

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that a decision to accept a notice of proposed relinquishment may be made, and an order pursuant to section 5(e) of this Act may be approved and signed, only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

II

98TH CONGRESS
2D SESSION

S. 2659

To withdraw and reserve for the Department of the Air Force certain public land within the Luke Air Force Range, Maricopa, Pima, and Yuma Counties, Arizona, for use as a training and weapons testing area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, APRIL 30), 1984

Mr. MCCLURE (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To withdraw and reserve for the Department of the Air Force certain public land within the Luke Air Force Range, Maricopa, Pima, and Yuma Counties, Arizona, for use as a training and weapons testing area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, the public lands aggregating approximately 2,664,423 acres in Maricopa, Pima, and Yuma Counties, Arizona, as more fully described in application A-9973 and set forth in the Federal Register of December 22, 1981 (vol. 46, No. 245, pages 62186–62181), are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral or geothermal leasing laws, for use by the Department of the Air Force as a high hazard testing area, a training area for aerial gunnery, rocketry, electronic warfare, tactical maneuvering and air support, and for other defense related uses consistent therewith; however, except to the extent rendered necessary by national defense, this Act does not affect the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.) as it applies to the Cabeza Prieta National Wildlife Refuge, any Executive order or public land order affecting the Cabeza Prieta National Wildlife Refuge, or any memorandum of understanding between the Department of the Interior, the Department of the Air Force, and the Department of the Navy regarding the administration and joint use of certain portions of the Cabeza Prieta National Wildlife Refuge.

SEC. 2. Responsibility for management of the withdrawn lands is established as follows:

(a) The Secretary of the Air Force shall have exclusive jurisdiction over the management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate—

(i) when military operations, public safety, or national security, as determined by the Secretary of the Air Force, require the closure of roads and trails commonly in public use, the Secretary of the Air Force is authorized to take such action. Appropriate warning notices shall be kept posted during closures; and

(ii) the Secretary of the Air Force shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the withdrawn lands as a result of military activities. The memorandum of understanding required by section 2(c) of this Act shall provide for Bureau of Land Management cooperation on the suppression of such fires, and for a transfer of funds from the Department of the Air Force to the Bureau of Land Management as compensation for such assistance.

(b) The Secretary of the Interior shall manage the withdrawn lands and their resources, except the lands in the Cabeza Prieta National Wildlife Refuge, under principles of multiple use and sustained yield for uses which may include, but are not limited to, grazing, management of wildlife habitat, control of predatory animals, and the prevention and suppression of brush and range fires resulting from nonmilitary activities. Except as provided in subsection (a) of this section, the Secretary of the Interior shall also be reponsible for the issuance of all easements, mineral leases, and rights-of-way over the lands hereby withdrawn and reserved. All such uses, and the issuance of all leases, easements, and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with concurrence of the Secretary of the Air Force. Within one year of the date of the enactment of this Act, the Secretary of the Interior, after consultation with the Secretary of the Air Force, shall develop a resource management plan and implementation program for the use and management of the lands under principles of multiple use and sustained yield. The lands in the Cabeza Prieta National Wildlife Refuge shall be managed by the Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.), except to the extent that other uses are required for purposes of national defense.

(c) The Secretary of the Interior and the Secretary of the Air Force shall enter into a memorandum of understanding to implement the plan or program required by this section, except that they may continue in effect the March 24, 1975, Memorandum of Understanding, or any modification thereof, between the Department of the Interior, the Department of the Air Force, and the Department of the Navy covering the administration and joint use of certain portions of the Cabeza Prieta National Wildlife Refuge. The term of all memorandums of understanding shall be the same as the term of the withdrawal of the involved lands; however, the provisions of the memorandums of understanding may be amended upon mutual consent of the Secretaries.

SEC. 3. The withdrawal established by this Act is not intended to (a) reserve or otherwise withdraw any water for use in connection with the uses identified in the first section of this Act; (b) affect in any manner the future appropriation under State law, by the United States or others, of water in, under, or upon the lands withdrawn by this Act; or (c) affect water rights acquired by the Department of the Air Force or other components of the Department of Defense prior to the enactment of this Act for use in connection with military operations at Luke Air Force Range.

SEC. 4. (a) Prior to the tenth anniversary of the date of enactment of this Act, the Secretary of the Interior shall prepare and transmit to the President of the Senate and the Speaker of the House of Representatives an analysis of the mineral potential of the lands withdrawn by this Act, together with his recommendations, developed in consultation with the Secretary of the Air Force, identifying which, if any, of the lands should be opened to operation of the mining laws, in light of the military use of the lands, the relative availability of the minerals determined to be present on the lands, and, if applicable, the contaminated state of the lands.

(b) If the Congress, after review of the mineral analysis and recommendations required by subsection (a) of this section and prior to the eleventh anniversary of the date of enactment of this Act, adopts a joint resolution stating that all or a portion of the lands shall be opened to the operation of the mining laws and identifying the lands which shall be opened, the Secretary of the Interior shall immediately publish in the Federal Register an appropriate withdrawal revocation order which shall modify or terminate the withdrawal in accordance with the provisions of the joint resolution, and state the date upon which the involved lands will be opened to operation of the mining laws or other public land laws, as appropriate.

SEC. 5. (a) Except as provided otherwise in this Act, the withdrawal established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the expiration of the withdrawal established by this Act, the Secretary of the Air Force shall advise the Secretary of the Interior as to whether the Department of the Air Force will have a continuing need for any of the lands beyond the termination date;

(i) if the Secretary of the Air Force concludes that there will be a continuing need for any of the lands beyond the termination date, he shall file an application for extension of the withdrawal of such lands in accordance with the regulations and procedures applicable to the extension of withdrawals that the Secretary of the Interior has the discretionary authority to issue. In that case, the withdrawal accomplished by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawal by the Secretary of the Interior and, where required, by the Congress; and

(ii) if the Secretary of the Air Force concludes that, beyond the termination date established by subsection (a) of this section, there will be no need for all or any of the lands withdrawn by this Act, or if, during the period of withdrawal, the Secretary of the Air Force determines to relinquish all or any of the lands withdrawn under this Act, he shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(ii) of this section, the Secretary of the Air Force shall determine whether and to what extent the lands are contaminated with explosives or toxic and other hazardous materials—

(i) if the lands are contaminated, and the Secretary of the Air Force, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, he shall decontaminate the lands, unless Congress declines to appropriate funds for the project;

(ii) if the Secretaries of the Air Force and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment; and

(iii) a copy of the determination made by the Secretaries shall be supplied with the notice of intention to relinquish.

(d) If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal created by this Act, and every five years thereafter, the Secretary of the withdrawal created by this Act, and every five years thereafter, the Secretary of the Air Force, in coordination with the Secretary of the Interior, shall reassess the withdrawal to determine whether or not decontamination of any or all of the lands is practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to the operation of the public land laws, including the mining laws, the Secretary of the Air Force shall decontaminate the land, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Department of the Air Force that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) If the Secretary of the Interior decides to accept jurisdiction of the lands withdrawn by this Act which are proposed for relinquishment, he shall publish in the Federal Register an appropriate withdrawal revocation order which shall constitute official acceptance of full jurisdiction by the Secretary of the Interior, shall terminate the withdrawal, and shall state the date upon which the involved lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 6. (a) The functions of the Secretary of the Air Force under this Act may be delegated:

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that a decision to accept a notice of intention to relinquish may be made, and orders pursuant to sections 4(b) and 5(e) of this Act may be approved and signed, only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

II

98TH CONGRESS
2D SESSION

S. 2660

To withdraw and reserve for the Department of the Army certain public lands within the Fort Greely maneuver area, in the Big Delta area, Alaska, and certain public lands within the Fort Greely air drop zone, in the Granite Creek area, Alaska, for use as training and equipment development areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, APRIL 30), 1984

Mr. MCCLURE (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To withdraw and reserve for the Department of the Army certain public lands within the Fort Greely maneuver area, in the Big Delta area, Alaska, and certain public lands within the Fort Greely airdrop zone, in the Granite Creek area, Alaska, for use as training and equipment development areas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, the public lands aggregating approximately five hunded and seventy-one thousand nine hundred and ninety-five acres, known as the Fort Greely maneuver area, in the Big Delta area, Alaska, as more fully described in application numbered F-35871 and set forth in the Federal Register of August 24, 1978 (Vol. 43, No. 165, page 37768), and April 27, 1979 (Vol. 44, No. 83, page 24938), and approximately fifty-one thousand five hundred and ninety acres, known as the Fort Greely airdrop area, in the Granite Creek area, Alaska, as more fully described in application numbered F-35872 and set forth in the Federal Register of September 18, 1980 (Vol. 45, 183, pages 62213-62214), and January 15, 1981 (Vol. 46, No. 10, page 3641), are hereby withdrawn from all forms of appropriation under the mining laws, the Alaska Native Claims Settlement Act (85 Stat. 688), and the Alaska Statehood Act (72 Stat. 339), but not the mineral or geothermal leasing laws, for use by the Department of the Army for military maneuvers, training, equipment development and testing, and for other defense-related uses consistent therewith.

SEC. 2. Responsibility for management of the withdrawn lands is established as follows:

(a) The Secretary of the Army shall have exclusive jurisdiction over the management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate.

(1) When military operations, public safety, or national security, as determined by the installation com-

mander, require the closure of roads and trials commonly in public use, the Secretary of the Army is authorized to take such action. Appropriate warning notices shall be kept posted during closures.

(2) The Secretary of the Army shall take necessary precautions to prevent and suppress fires occurring within and outside the withdrawn lands as a result of military activities. The memorandum of understanding required by section 2(c) of this Act shall provide for Bureau of Land Management cooperation in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) The Secretary of the Interior shall manage the withdrawn lands and their resources for uses which may include, but are not limited to, grazing, management of wildlife habitat, recreation, control of predatory animals, and the prevention and suppression of fires resulting from nonmilitary activities. Except as set forth in subsection (a) of this section the Secretary of the Interior shall also be responsible for the issuance of all easements, mineral and geothermal leases, and rights-of-way over the lands hereby withdrawn and reserved. All such uses, and the issuance of all leases, easements, and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with concurrence of the

Secretary of the Army. Within one year of the date of the enactment of this Act, the Secretary of the Interior, after consultation with the Secretary of the Army, shall develop a resource management plan and implementation program for the use and management of the lands, under principles of multiple use and sustained yield.

(c) The Secretary of the Interior and the Secretary of the Army shall enter into a memorandum of understanding to implement the plan or program required by this section. The term of the memorandum of understanding shall be the same as the term of the withdrawal of the involved lands.

SEC. 3. All hunting, fishing, and trapping on the land shall be conducted in accordance with the fish and game laws of the State of Alaska.

SEC. 4. (a) One million five hundred thousand gallons per day of water located on, under, over, or appurtenant to the Federal lands withdrawn by this Act, that have not been appropriated as of the date of this Act, and that are required for future military purposes, are hereby reserved for such use by the Secretary of the Army.

(b) If the Secretary of the Army determines that it is necessary to acquire additional water in excess of the quantity identified in paragraph (a) above, he shall either—

(1) acquire the rights to such additional water in conformity with the applicable laws of the State of

Alaska relating to the control, appropriation, use, and distribution of water resources in that State; or

(2) obtain a specific reservation of additional Federal water rights from Congress.

(c) The reservation of water established by the Act is not intended to affect water rights acquired by the Department of the Army prior to the enactment of this Act.

SEC. 5. (a) Except as provided otherwise in this section, the withdrawal established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the expiration of the withdrawal established by this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether the Department of the Army will have a continuing need for any of the lands beyond the termination date.

(1) If the Secretary of the Army concludes that there will be a continuing need for any of the lands beyond the termination date, he shall file an application for extension of the withdrawal of such lands in accordance with the regulations and procedures applicable to the extension of withdrawals that the Secretary of the Interior has the discretionary authority to issue. In that case, the withdrawal accomplished by this Act shall remain in full force and effect pending processing of the application and a decision and action

on the proposed withdrawal by the Secretary of the Interior, and where required, by the Congress.

(2) If the Secretary of the Army concludes that, beyond the termination date established by subsection (a) of this section, there will be no need for all or any of the lands withdrawn by this Act, or if, during the period of withdrawal, the Secretary of the Army determines to relinquish all or any of the lands withdrawn under this Act, he shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Prior to filing a notice of intention to relinquish pursuant to subsection (b)(ii) of this section, the Secretary of the Army shall determine whether and to what extent the involved lands are contaminated with explosives or toxic and other hazardous materials.

(1) If the lands are contaminated, and the Secretary of the Army, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the lands, and that upon decontamination the lands could be opened to the operation of the public land laws, including the mining laws, he shall decontaminate the lands, unless Congress declines to appropriate funds for the project.

(2) If the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) A copy of the determination made by the Secretaries shall be supplied with the notice of intention to relinquish.

(d) If the Secretary of the Interior declines to accept jurisdiction of the lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal created by this Act, and every five years thereafter, the Secretary of the Army, in coordination with the Secretary of the Interior, shall reassess the withdrawal to determine whether or not decontamination of any or all of the lands is practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to the operation of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Department of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) If the Secretary of the Interior decides to accept jurisdiction of the lands withdrawn by this Act which are proposed for relinquishment, he shall publish in the Federal Register an appropriate withdrawal revocation order which shall constitute official acceptance of full jurisdiction by the Secretary of the Interior, shall terminate the withdrawal, and shall state the date upon which the involved lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 6. (a) The functions of the Secretary of the Army under this Act may be delegated.

II

98TH CONGRESS
2D SESSION

S. 2661

To withdraw and reserve for the Department of the Army certain public lands within the Fort Wainwright Maneuver Area, Fourth Judicial District, Alaska, for use as a training and weapons testing area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, APRIL 30), 1984

Mr. MCCLURE (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To withdraw and reserve for the Department of the Army certain public lands within the Fort Wainwright Maneuver Area, Fourth Judicial District, Alaska, for use as a training and weapons testing area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, the public lands aggregating approximately 249,551.67 acres in the Fourth Judicial District, Alaska, as more fully described in application numbered F–020174 and set forth in the Federal Register of April 26, 1979 (vol. 44, No. 82, pages 24646–24647), are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the Alaska Native Claims Settlement Act (85 Stat. 688), and the Alaska Statehood Act (72 Stat. 339), but not the mineral or geothermal leasing laws, for use by the Department of the Army as a military maneuver area, a training area for artillery firing, aerial gunnery, infantry tactics, and other defense related uses consistent therewith.

SEC. 2. Responsibility for management of the withdrawn lands is established as follows:

(a) The Secretary of the Army shall have exclusive jurisdiction over the management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate—

(i) when military operations, public safety, or national security, as determined by the installation commander, require the closure of roads and trials commonly in public use, the Secretary of the Army is authorized to take such action. Appropriate warning notices shall be kept posted during closures; and

(ii) the Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the withdrawn lands as a result of military activities. The memorandum of understanding required by section 2(c) of this Act shall provide for Bureau of Land Management cooperation in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) The Secretary of the Interior shall manage the withdrawn lands and their resources for uses which may include, but are not limited to, management of wildlife habitat, recreation, control of predatory animals, and the prevention and suppression of fires resulting from nonmilitary activities. Except as set forth in subsection (a) of this section the Secretary of the Interior shall also be responsible for the issuance of all easements, mineral leases, and rights-of-way over the lands hereby withdrawn and reserved. All such uses, and the issuance of all leases, easements, and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with concurrence of the Secretary of the Army. Within one year of the date of the enactment of this Act, the Secretary of the Interior, after consultation with the Secretary of the Army, shall develop a resource management plan and implementation program for the use and management of the lands under principles of multiple use and sustained yield.

(c) The Secretary of the Interior and the Secretary of the Army shall enter into a memorandum of understanding to implement the plan or program required by this section. The term of the memorandum of understanding shall be the same as the term of the withdrawal of the involved lands.

SEC. 3. All hunting, fishing, and trapping on the land shall be conducted in accordance with the fish and game laws of the State of Alaska.

SEC. 4. (a) Two million four hundred thousand gallons per day of water located on, under, over, or appurtenant to the Federal lands withdrawn by this Act, that have not been appropriated as of the date of this Act, and that are required for future military purposes, are hereby reserved for such use by the Secretary of the Army.

(b) If the Secretary of the Army determines that it is necessary to acquire additional water in excess of the quantity identified in paragraph (a) above, he shall either—

(1) acquire the rights to such additional water in conformity with the applicable laws of the State of Alaska relating to the control, appropriation, use and distribution of water resources in that State; or

(2) obtain a specific reservation of additional Federal water rights from Congress.

(c) The reservation of water established by the Act is not intended to affect water rights acquired by the Department of the Army prior to the enactment of this Act.

SEC. 5. (a) Except as provided otherwise in this section, the withdrawal established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the expiration of the withdrawal established by this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether the Department of the Army will have a continuing need for any of the lands beyond the termination date—

(i) if the Secretary of the Army concludes that there will be a continuing need for any of the lands beyond the termination date, he shall file an application for extension of the withdrawal of such lands in accordance with the regulations and procedures applicable to the extension of withdrawals that the Secretary of the Interior has the discretionary authority to issue. In that case, the withdrawal accomplished by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawal by the Secretary of the Interior and, where required, by the Congress; and

(ii) if the Secretary of the Army concludes that, beyond the termination date established by subsection (a) of this section, there will be no need for all or any of the lands withdrawn by this Act, or if, during the period of withdrawal, the Secretary of the Army decides to relinquish all or any of the lands withdrawn under this Act, he shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(ii) of this section, the Secretary of the Army shall determine whether and to what extent the involved lands are contaminated with explosives or toxic and other hazardous materials—

(i) if the lands are contaminated, and the Secretary of the Army, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to the operation of the public land laws, including the mining laws, he shall decontaminate the lands, unless Congress declines to appropriate funds for the project;

(ii) if the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment; and

(iii) a copy of the determination made by the Secretaries shall be supplied with the notice of intention to relinquish.

(d) If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal created by this Act, and every five years thereafter, the Secretary of the Army, in coordination with the Secretary of the Interior, shall reassess the withdrawal to determine whether or not decontamination of any or all of the lands is practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be open to operation of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Department of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) If the Secretary of the Interior decides to accept jurisdiction of the lands withdrawn by this Act which are proposed for relinquishment, he shall publish in the Federal Register an appropriate withdrawal revocation order which shall constitute official acceptance of full jurisdiction by the Secretary of the Interior, shall terminate the withdrawal, and shall state the date upon which the involved lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 6. (a) The functions of the Secretary of the Army under this Act may be delegated.

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that a decision to accept a notice of intention to relinquish may be made, and an order pursuant to section 5(e) of this Act, may be approved and signed, only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

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II

98TH CONGRESS
2D SESSION

S. 2662

To withdraw and reserve for the Department of the Navy certain public lands for the Bravo-20 Bombing Range, Churchill County, Nevada, for use as a training and weapons testing area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, APRIL 30), 1984

Mr. MCCLURE (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To withdraw and reserve for the Department of the Navy certain public lands for the Bravo-20 Bombing Range, Churchill County, Nevada, for use as a training and weapons testing area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) subject to valid existing rights the following public lands aggregating approximately 21,576.40 acres in Churchill County, Nevada, and all other lands within the boundaries of the Bravo-20 Bombing Range, as described in subsection (b) of this section, that are now or may hereafter become subject to the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral and geothermal leasing laws, and are reserved for use of the Department of the Navy as a testing and training area for aerial bombing, missile firing, tactical maneuvering and air support, and for other defense related uses consistent therewith:

Mount Diablo Meridian, Nevada

Township 23 north, range 32 east sections 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, and 30.

Township 24 north, range 32 east sections 20, 22, 24, 26, 28, 30, 32, 34, and 36.

Township 23 north, range 33 east sections 6, 8, southeast quarter 17, 18, south half 19, 20, 29, and 30.

Township 24 north range 33 east sections 20, 30, and 32.

(b) The boundaries of the Bravo-20 Bombing Range are described as follows: Beginning at the southwest section corner of section 30 township 23 north, range 32 east, thence northerly along the section line approximately 8 miles to the northwest section corner of section 19, township 24 north, range 32 east, thence easterly along the section line approximately 8 miles to the northeast section corner of section 20, township 24 north, range 33 east, thence southerly along the section line approximately 8 miles to the southeast section corner of section 29, township 23 north, range 33 east, thence westerly along the section line approximately 8 miles to the point of beginning.

SEC. 2. Responsibility for management of the land withdrawn by this Act is established as follows:

(a) The Secretary of the Navy shall have exclusive jurisdiction over the management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate—

(i) when military operations, public safety or national security, as determined by the Secretary of the Navy, require the closure of roads and trails commonly in public use, the Secretary of the Navy is authorized to take such action. Appropriate warning notices shall be kept posted during closures, and

(ii) the Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the withdrawn lands as a result of military activities. The memorandum of understanding required by section 2(c) of this Act shall provide for Bureau of Land Management cooperation on the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(b) The Secretary of the Interior shall manage the withdrawn lands and their resources under principles of multiple use and sustained yield for uses which may include, but are not limited to, grazing, management of wildlife habitat, control of predatory animals, and the prevention and suppression of brush and range fires resulting from nonmilitary activities. Except as set forth in subsection (a) of this section, the Secretary of the Interior shall also be responsible for the issuance of all easements, mineral and geothermal leases, and rights-of-way over the lands hereby withdrawn and reserved. All shall be secondary to the military use of the lands and shall be authorized only with concurrence of the Secretary of the Navy. Within one year of the date of the enactment of this Act, the Secretary of the Interior, after consultation with the Secretary of the Navy, shall develop a resource management plan and implementation program for the use and management of the lands under principles of multiple use and sustained yield.

(c) The Secretary of the Interior and the Secretary of the Navy shall enter into a memorandum of understanding to implement the plan or program required by this section. The term of the memorandum of understanding shall be the same as the term of the withdrawal of the lands.

SEC. 3. The withdrawal established by this Act is not intended to (a) reserve or otherwise withdraw any water for use in connection with the uses identified in the first section of this Act; (b) affect in any manner the future appropriation under State law, by the United States or others, of water in, under or upon the lands withdrawn by this Act; or (c) affect water rights acquired by the Department of the Navy or other components of the Department of Defense prior to the enactment of this Act for use in connection with military operations at Bravo-20 Bombing Range.

SEC. 4. (a). Except as provided otherwise in this section, the withdrawal established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the expiration of the withdrawal established by this Act, the Secretary of the Navy shall advise the Secretary of the Interior as to whether the Department of the Navy will have a continuing need for any of the involved lands beyond the termination date—

(i) if the Secretary of the Navy concludes that there will be a continuing need for any of the withdrawn lands beyond the termination date, he shall file an application for extension of the withdrawal of such lands in accordance with the regulations and procedures applicable to the extension of withdrawals that the Secretary of the Interior has the discretionary authority to issue. In that case, the withdrawal accomplished by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawal by the Secretary of the Interior and, where required, by the Congress; and

(ii) if the Secretary of the Navy concludes that, beyond the termination date established by subsection (a) of this section, there will be no need for all or any of the lands withdrawn by this Act, or if, during the period of withdrawal, the Secretary of the Navy determines to relinquish all or any of the lands withdrawn under this Act, he shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(ii) of this section, the Secretary of the Navy shall determine whether and to what extent the involved lands are contaminated with explosives or toxic and other hazardous materials—

(i) if the lands are contaminated, and the Secretary of the Navy, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to the operation of the public land laws, including the minimg laws, he shall decontaminate the lands, unless Congress declines to appropriate funds for the project;

(ii) if the Secretaries of the Navy and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment; and

(iii) a copy of the determination made by the Secretaries shall be supplied with the notice of intention to relinquish.

(d) If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal created by this Act, and every five years thereafter, the Secretary of the Navy, in coordination with the Secretary of the Interior, shall reassess the withdrawal to determine whether or not decontamination of any or all of the lands is practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the lands, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Department of the Navy that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction of the lands.

(e) If the Secretary of the Interior decides to accept jurisdiction of the lands withdrawn by this Act which are proposed for relinquishment, he shall publish in the Federal Register an appropriate withdrawal revocation order which shall constitute official acceptance of full jurisdiction by the Secretary of the Interior, shall terminate the withdrawal, and shall state the date upon which the involved lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 5. (a) The functions of the Secretary of the Navy under this Act may be delegated.

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that a decision to accept a notice of intention to relinquish may be made, and an order pursuant to section 4(e) of this Act, may be approved and signed, only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

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STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator HECHT. Thank you, Mr. Chairman. I am pleased to be with you today for the subcommittee's consideration of these bills proposing to withdraw or renew withdrawals of various sections of Federal lands for military purposes. I am especially interested in these proceedings, because two of these measures before us, S. 2657 and S. 2662 affect portions of my State of Nevada.

All of us in the Nevada delegation have received numerous inquiries and many expressions of concern from the people of our State regarding these and other military withdrawal proposals. In fact, Mr. Bob McQuivey of the Nevada Department of Wildlife and Mr. Ed Robbins of Dixie Valley, and Dr. Richard Bargen from Fallon, NV, will be presenting us with testimony later today, which I think will point out some of these concerns.

I am hopeful that the testimony and the answers provided by our witnesses on the first panel will help to clear up much of this confusion and consternation.

Mr. Chairman, I will reserve further comment until we have heard from our witnesses. Thank you.

Senator WALLOP. Thank you, Chic. I appreciate it.

Now, then I will ask the administration witnesses to come to the table as a panel. Deputy Rittenhouse, Installations Management, U.S. Air Force; William Cronin, Department of the Army, Directorate of Real Estate, Army Corps of Engineers; Jeff Roth, Naval Facilities Engineering Command; and Frank Edwards of the Bureau of Land Management.

Senator Domenici has arrived, so I will entertain any opening statement he may have.

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. Thank you very much, Mr. Chairman. Obviously, you have a number of matters before you that bring you here. I am going to refer to just one, Mr. Chairman. That is S. 2658, the request for a withdrawal of over 600,000 acres that are known as the McGregor Range. These lands are presently under military supervision and being used by the military.

Actually, I want to make three points. Our State has an abundance of military usage and a great large quantity of federally owned land. For the most part, they are good neighbors and for the most part we get along well and we are glad they are there. I do want to suggest, however, that with reference to 2658, I have three concerns and I would ask the chairman before the bill is reported out to let us work with the Government on these three concerns and see if we cannot alleviate some of the problems that have been raised.

First, I hope the witnesses, either here or later, can convince me that they really need all of the acreage. We get complaints that much of that acreage is not being used. I understand how people could misunderstand that, but nonetheless we do want to be convinced that you in fact need it.

Second, water rights, it is common knowledge that we are engaged in some very serious water rights issues in our State. We just had a major decision with reference to our State statutes. Fort Bliss seems to be applying for some water rights. That is in the news and I am unaware of it and I want to find out what that is about. I understand here you are requesting some grant of water rights in this legislation for usage there.

Clearly, I need more information on that and I need to know why we should not use the State statute and apply, as others do, for water.

The third is of more interest to the chairman, perhaps, and other members of the committee. It has to do with grazing practices. As you might suspect, this is a huge piece of Federal land that had traditional grazing patterns and uses on it. As big as it is, you know in our kinds of States, it is surrounded by users who had traditionally used it. This legislation allows for limited grazing when not needed by the military. We have had some very big drought years.

We would like to consider some flexibility in terms of the military being able to let some of that land be used during those difficult times as some kind of reserve and we would like to consider a better chance for historic users in the area to have a reasonable chance to lease it and use it. At this point, that is not the case and that is not the way it has been managed. I am sure we can work together on it and I will seek your advice and theirs as we move through.

In its basic form as presented, I, as the Senator from New Mexico, would not recommend that we report it out as is.

Thank you very much, Mr. Chairman.

Senator **Wallop**. Thank you, Pete.

Mr. Rittenhouse.

STATEMENT OF JOHN O. RITTENHOUSE, DEPUTY, INSTALLATIONS MANAGEMENT, U.S. AIR FORCE, ON S. 2657

Mr. **Rittenhouse**. Mr. Chairman, Senators, I am John O. Rittenhouse, otherwise known as Jack Rittenhouse, the Deputy for Installations Management in the Office of the Deputy Assistant Secretary of the Air Force for Installations, Environment, and Safety.

I am pleased to appear before this committee to discuss H.R. 4932, which withdraws and reserves 3,034,929 acres of public land in southern Nevada to the Department of the Air Force for 25 years, subject to all valid and existing private property rights.

Senator **Wallop**. I wonder, if just for the record, you would not correct it for the Senate bill, because that is what we are hearing on it. Whatever the House one is, it is S. 2657.

Mr. **Rittenhouse**. I am sorry. For the record, so corrected.

I will not read my entire statement, which is submitted for the record in the interest of time. But there are some major points that I would like to summarize in my opening statement before you go on and ask questions of me and before you get to Mr. Edwards on the Interior aspects of this.

The Nellis Air Force Range comprises the largest air and ground space available in the free world for peacetime military operations.

It is operated and maintained to satisfy Department of Defense and Air Force requirements for a realistic combatlike training environment.

The military services, as well as other Federal departments and allied foreign governments use the unique facilities for test and evaluation, aerial gunnery, tactical maneuvering and air support, electronic warfare, and large scale military exercises such as that which is dubbed red flag. Because of the large expanse of land area required to conduct such unique testing and training, there are no other areas available to accomplish these missions.

Furthermore, due to the high cost of developing a range as complex and diversified as this, it is unlikely that this range could be duplicated in any other area of the free world.

I might interject there, Mr. Senator, that the cost that we have experienced in establishing this range over the past 5 years in real property development has exceeded $100 million and in the next 5 years we anticipate spending approximately $244 million additional on installations that are on that range. Much of that is electronic equipment and things that are not easily moved around. We estimate that the total value of current installations on the range add up to hundreds of millions of dollars of Government appropriated funds that are installed there.

I thought it would be important to note that there is a considerable Federal expenditure already in this range. One thing I would like to make a point of too, Mr. Senator, and that is that the Air Force is applying for an additional 89,600 acres of property. Aside from that 89,600 acres of property, which comprises what is called the Groom Range Area or the Groom Mountain Area, the withdrawal is as it currently exists, there are no additional acres aside from that 89,000. The 89,000 acres are being withdrawn or requested for withdrawal on the basis of concern for control of the surface and nothing else.

There will be no environmental impact in that area, aside from controlling the access and egress to that 89,600 acres. It is a matter of security for projects that are being carried on in other locations which are in line of site of that mountain range. What else I can tell you about the range is already mentioned in our statement.

The environmental impact statement on the range was filed on May 1, 1974. We modified that to encompass these 89,600 acres as my statement indicates. The area of modification——

Senator Wallop. Could you clarify for me, you did modify the EIS to include the——

Mr. Rittenhouse. We modified the application and we modified the information here. We did not modify the environmental impact statement, because it comprised less than 2 percent of the total withdrawal and in our estimation there was an impact that was negligible due to the fact, as I said, the only thing we are going to be doing is controlling the roadway access to and from that site.

Senator Wallop. Was there public notification of that or did you do an EA?

Mr. Rittenhouse. What we did was to notify the congressional delegation from Nevada—now this was a few years back—the congressional from Nevada, the State House of Nevada, and we have letters of record and memorandums that we can submit for the record indicating that. We also had a conference with the Department of the Interior at the Assistant Secretary level to discuss this and I might point out too, at that time there was every indication that we were within a few months of final withdrawal and we felt that rather than lose several years more of attempting to get back to the cycle that would take us through the Department of Interior review, the OMB review and then to this committee that we decided that we had to go with the 89,000 acres as what some of my working compatriots would call a minor boundary adjustment.

I might point out too, Mr. Senator, that the total acreage withdrawn, even including this 89,000 acres is less than the total that has been historically in the past withdrawn. There have been other times.

What we have here starts back in 1940. In 1940, President Roosevelt withdrew by public land orders and executive orders bits and pieces of this range. Over the years it has sort of expanded and contracted, as so many of the other ranges that you will hear today have, so that the current amount of approximately 3 million acres is less than it has been in the historic past in the 40-some-odd years we have gone between 1940 and today.

The bottom line, I think, in summary though is that the range represents a valuable and irreplaceable situation for the United States of America and for the Department of Defense. I think that the Department of the Interior and the Fish and the Wild Service, as well as the State of Nevada fish and wildlife people will indicate to you that there has been a good working relationship as to multiple use of that land and we have tried our very best to allow the private landowners both mining claims and grazers to continue within reason their operations. When I say within reason, what I am referring to is they have been most cooperative with us as very good Americans by allowing us to say maybe could you delay your entry to your mine site from 8 o'clock in the morning to 4 that afternoon, because we have something going on out there that we would prefer you—and they have been very cooperative with that.

We have made offers, we have an offer standing with all private claims in the area that we would either buy an interest in their land or an interest in their claim for a limited period of years in order to make sure that they were compensated for any inconvenience and currently we are in correspondence with one of the miners out there, a man named Mr. Sheahan and his family, with the idea of acquiring an interest in his land. In other words, he would retain the mining title, but the interest in the land would be bought for a period of years in order to compensate his family for any inconvenience that there might be.

That is the type of approach we have tried to pursue in all of our operations with private holders, in all of our range area and Nellis is no exception.

With that, I would like to conclude. I am sorry, I took a little longer than I anticipated, but I thought I would answer some of those questions up front.

[The prepared statement of Mr. Rittenhouse and a subsequent submittal follow:]

Not for Publication Until Released
By the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
United States Senate

STATEMENT OF

JOHN O. RITTENHOUSE

DEPUTY FOR INSTALLATIONS MANAGEMENT

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE

(Installations, Environment and Safety)

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

AUGUST 8, 1984

Mr. Chairman and members of the Committee, I am John O. Rittenhouse, Deputy for Installations Management, Office of the Deputy Assistant Secretary of the Air Force (Installations, Environment, and Safety). I am pleased to appear before this Subcommittee to discuss S. 2657 which withdraws and reserves 3,034,929 acres of public land in southern Nevada to the Department of the Air Force for 25 years, subject to all valid and existing private property rights.

INTRODUCTION

The Nellis Air Force Range comprises the largest air and ground space available in the free world for peacetime military operations. It is designated by the Department of Defense as a component of the Major Range and Test Facility Base. The major range and test facilities constitute a national asset - sized, operated, and maintained for Department of Defense test and evaluation support missions. Because of the unique capabilities and characteristics of these facilities, they are also used in support of other U.S. Government agencies and allied foreign governments. Specifically, the Nellis Air Force Range is operated and maintained to satisfy DoD and Air Force requirements for a combat-like training environment. The Military Services, as well as other Federal departments and allied foreign governments, use the unique facilities at the Nellis AF Range for test and evaluation; training areas for aerial gunnery; tactical maneuvering and air support; electronic warfare; large scale military exercises; and other specialized and integrated force missions. Because of the large expanse of land area required to conduct the unique testing and training, there are no other areas available to accomplish these missions. Furthermore, due to the high cost of developing a range, estimated in the hundreds of millions of dollars, it is unlikely that a range complex such as this could be duplicated in any other area. The continued use of this national asset permits a realistic combat training environment, an element vital to attaining and maintaining our air combat capabilities. These capabilities are essential to the readiness of our tactical forces in defense of this nation. The importance of the Nellis AF Range testing and training environment cannot be overemphasized.

BACKGROUND

By Executive Order 8578, October 29, 1940, President Roosevelt established the Las Vegas Bombing and Gunnery Range. Since 1942 the Las Vegas Bombing and Gunnery Range, now the Nellis AF Range, has undergone numerous changes through executive orders, public land orders, and administrative actions, e.g. the size of the original range has decreased from 3.6 million acres to its present configuration of 3.1 million acres. From the time of the establishment of the Range in 1940 until 1959, co-use was granted to cattlemen and miners. Based on the realization that the Department of Defense would require this area as a permanent range and test facility and that future training and testing would increase, actions were begun to purchase all existing grazing and mineral rights within the current boundaries of the Nellis AF Range. The Air Force expended $708,000 to purchase all private interests within the range with the exception of three patented mining claims which were subordinated through leasing. The Air Force is in the process of purchasing one claim, has purchased an indefinite lease subordination on a second claim and is continuing the lease subordination on the third mining claim. These actions have been taken to compensate private owners since unrestricted access to the range is not possible because of safety and national security reasons.

INTERRELATIONSHIPS

Department of Energy

From 1952-1961, three public land orders transferred portions of the range to the Atomic Energy Commission, now the Department of Energy, for the development of the Nevada Test Site. The Nevada Test Site is located between the north and south portions of the

Nellis AF Range. Through a Memorandum of Understanding (MOU) the Air Force has permitted 369,280 acres to the Department of Energy for use as a fully instrumented test range. This area, located in the upper portion of the North Range, is commonly referred to as the Tonopah Test Range.

Desert National Wildlife Range (DNWR)

The South Range of the Nellis AF Range overlaps the western half of the Desert National Wildlife Range (DNWR). The DNWR (1,322,900 acres) is managed by the Department of the Interior, Fish and Wildlife Service, who has primary jurisdiction over these lands. Through a MOU, March 11, 1976, the Air Force and the Fish and Wildlife Service co-use the overlapping area. The MOU allows the Air Force to establish training and testing sites in specific locations below 3,600 feet mean sea level. These sites are located in the lower elevations to allow for the coexistence of Bighorn Sheep. The testing and training sites take up 16 percent of the DNWR. All other Air Force activity affecting the DNWR is limited to air space usage.

Bureau of Land Management

The Department of the Interior, Bureau of Land Management (BLM), will manage the land and resources (except the DNWR) under the principle of multiple use. Issuance of agreements, rights-of-way, leases, and easements will be the responsibility of BLM. All such uses and any agreement are secondary to the military use of the land and are authorized only with the concurrence of the Air Force. BLM has primary responsibility for the management of wild horses and burros. The Nevada Wild Horse Range is located in the central portion of the North Range of the Nellis AF Range and was established for the protection and welfare of the wild horses and burros.

Five-Party Cooperative Agreement

Under the umbrella of numerous public laws and the principle of multiple use, a five-party cooperative agreement was effected in January 1977. Signatories to this agreement are the Air Force, Bureau of Land Management, Fish and Wildlife Service, Department of Energy, and the Nevada Department of Fish and Game. This cooperative agreement was instituted for the purpose of protection and management of the natural resources within the boundaries of the Nellis AF Range. The cooperative agreement is based on the concept of shared responsiblity which is beneficial to the management of natural resources and to the Air Force range operations. The cooperative agreement states that "all parties shall cooperate in conducting resource inventory(s) of the area and developing resource management plan for wild horses, burros, and fish and wildlife based on the inventory data." We advocate continuing the cooperative agreement to ensure that the needs and concerns of all involved agencies are addressed.

Minerals

The Mining Law of 1872 presently governs the exploration and extraction of hard rock minerals from public lands. This law provides for a patent system which allows the locator of valuable minerals exclusive right of possession and enjoyment of the surface and subsurface rights, including construction of any structures directly related to the mining operation. The patent system is neither consistent nor compatible with Air Force or Department of Energy operations. Therefore, the public land within the Nellis AF Range has been withdrawn from the operation of the Mining Law of 1872. However, under some circumstances, existing patented claims can be compatible with military operations. This could only be accomplished by placing access restrictions on the patent holder.

The Mineral Leasing Law of 1920 allows leasing of public land containing deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite, all vein type solid hydrocarbons, and gas. The exploration for and exploitation of these minerals on withdrawn lands under the concept of multiple use are evaluated by the surface managing agency on a case-by-case basis to determine compatability. If the Air Force, as surface managing agency, determines that multiple use is feasible on a non-interference basis, then the Bureau of Land Management can issue mineral leases.

Environmental Impact Analysis Process

During preparation of the draft environmental statement, the Air Force and BLM (the agency responsible for public land) contacted federal agencies, state and local agencies and interested groups and individuals. On May 23, 1977, a letter was issued asking for comments and identification of potential environmental impact. A Range operational briefing was conducted on August 23, 1977, in Reno, Nevada. The briefing was provided to federal and state agencies to assist in their review of potential impacts. Notice was published in the Federal Register, Vol 42, No. 179, September 15, 1977, concerning the preparation of the environmental impact statement on the withdrawal renewal. At about the same time, coverage was provided through local news media. A meeting was held on March 4, 1978, at the BLM State Office to discuss wilderness items and areas of critical environmental concern. Representatives of the Sierra Club, Nevada Outdoor Recreation Association, and the University of Nevada at Reno, Recreation Department participated in the meeting.

The Draft Environmental Statement was filed with the Environmental Protection Agency on July 27, 1979, and released to the public. The notice of availability was published in the August 3, 1979 issue of the Federal Register. News releases were issued by the BLM Nevada State Office to publicize the availability of the Draft Environmental Impact Statement (EIS). A public hearing was held on the Draft EIS on September 18, 1979, in Las Vegas, Nevada. The hearing was announced in the Federal Register notice of August 17, 1979, and was publicized in Nevada through news releases from the Nevada State Office of BLM. The hearing was chaired by a representative of the Nevada office with panel members consisting of representatives of the Air Force and BLM. The Final EIS was filed with EPA in April 1981 and appeared in the Federal Register, Vol 46, No. 84 on May 1, 1981.

Groom Mountain Range

In November 1981, the Air Force asked the Bureau of Land Management to modify the withdrawal application to include 90,000 acres of public land for national security reasons. The 90,000 acres are within the Groom Mountain area contiguous to the eastern boundary of the North Range of the Nellis AF Range. Withdrawal of this elevated area to serve as a buffer is required in the interest of national security. This area is only to be used as a buffer and not for the siting of any targets or other environmentally significant activities.

The Draft and Final Environmental Impact Statements (EIS) for the continuation of Air Force use of the public land comprising the Nellis AF Range was for 2,944,929 acres. The requirement for the

Groom Mountain area was identified after the Final EIS was filed and published in the Federal Register. The 90,000 acres are contiguous to the North Range, and constitute only a three percent increase in the land area of the proposed withdrawal. This area will be used only as a safety and security buffer. The general area was fully evaluated as part of the environmental impact analysis process and no use of this area will have any different environmental impacts than those described in the EIS. Therefore, a decision was made, with the knowledge of the Bureau of Land Management, not to readdress impacts already covered in the approved Final EIS. An additional redundant environmental analysis would have delayed the withdrawal of these public lands.

Based on national security, access restrictions were placed on this area to prevent access by unauthorized visitors. Persons possessing valid existing property rights have been permitted reasonable entry to the area, although restricted at times, to pursue their legitimate activities. The Air Force takes full responsibility for restricting access to the Groom Mountain area. In this regard, we are seeking the understanding of the public and this Subcommittee in expediting the withdrawal process and the cooperation of those persons with valid existing property rights in the interest of national defense. We will continue to work with those owners having valid existing property rights to minimize their inconvenience.

SUMMARY

The Nellis AF Range is a unique national asset which would be impossible to reproduce anywhere in the continental United States. It provides valuable testing and training for our tactical forces as well as other authorized agencies. The importance of the realistic combat-like training environment is immeasurable as members of this Congress and their staffs have seen firsthand.

The environmental analysis process for withdrawal of the public lands does not, as indicated, specifically address the 90,000 acres contained in the Groom Mountain area. The environmental issues with respect to this area are essentially the ones addressed by the EIS for the range as a whole, except that no active use, such as bombing, is contemplated for this area. Since it is only a three percent increase in the total withdrawal and presented no unique environmental issues, we did not believe that amendment of the EIS would serve a useful purpose. It is in the interest of national security that the Groom Mountain area be included in our proposed withdrawal. We will continue to work, as we have in the past, with owners of valid existing property rights, within the Groom Mountain area, to insure that they have access to their property. However, if restricted access is not acceptable to the owners, we are agreeable to acquiring a subordination agreement or fee title to their property at fair market value based on an independent appraisal.

This concludes my prepared remarks. Thank you, Mr. Chairman, for the opportunity to explain the Air Force position on S. 2657.

Briefing to inform the Congressional delegation and the Governor was conducted by the Bureau of Land Management and the Department of the Air Force in February and March of 1982.

The briefing stressed the requirement for the additional 89,600 acres for national security purposes. The decision to amend the Nellis Air Force Range withdrawal application was made after an evaluation of several options.

The decision to include the 89,600 acres in the withdrawal and the Air Force's desire to maintain the status quo with respect to individuals with real property interests was supported by the Congressional delegation and the Governor.

The following individuals were briefed:
Senator Laxalt on February 8, 1982.
Senator Cannon on February 22, 1982.
Representative Santini on March 10, 1982.
Governor List on February 23, 1982.

Senator WALLOP. Jack, I appreciate it. As I had said earlier, we will recognize the Senators as they come in and Senator Murkowski has come in and I would entertain his statement now.

STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I appreciate the opportunity to appear before the Subcommittee on Public Lands and Reserved Water, and I appreciate the opportunity to present a very brief statement on S. 2660 and S. 2661, which is legislation proposing the withdrawal of certain public lands in my State of Alaska for use by the Department of the Army.

Mr. Chairman, it is my hope that this hearing or additional materials submitted after its conclusion will answer some of the lingering questions that we propose concerning the withdrawals.

We have had communications from the Alaska Department of Natural Resources, the Department of Fish and Game, and some other State agencies who have been attempting to work with the Army to fully understand several aspects associated with the land withdrawals. During the time since the legislation was introduced, officials in our State have been attempting to acquire copies of the previously released environmental impact, prepared for these withdrawals.

Mr. Chairman, it is my understanding that this information has just been communicated to the current administration. There has been a change in administration approximately 2 years ago and this new material is in hand, but it has not been examined fully, nor have the appropriate departments within the State had an opportunity to review it and form a consensus and pass that on to the Government.

According to a letter, which I would like to have submitted in the record, by the Governor, as I indicated this material was just received as late as last Monday, time is needed to fully assess the application of the withdrawals. However, a preliminary examination of the environmental impact statement and other currently available Army documentation on the surface appears to fail to justify the large appropriation of water rights envisioned in each of the bills. I would respectfully ask this chairman that the subcommittee seek a written justification from the Army outlining the specific need for these very large water appropriations.

Another point, Mr. Chairman, State officials have sought a greater understanding of the manner in which the Army proposes to manage the lands involved in these withdrawals for wildlife enhancement and recreation use. As a consequence of the inability to establish firm communications on this, they have been unable to gain the assurances and the understanding which they feel is in the public interest.

I am informed that there are potentially other issues which may arise after the environmental impact statement and other documentation is fully reviewed and understood. I would encourage the Army, of course, to work with the appropriate State officials to address the issues and resolve any disagreements which may arise. I assure you that the State has indicated its willingness to work with the Army to resolve these issues and they feel quite confident that they can indeed be resolved.

However, until the issues are resolved , Mr. Chairman, I must ask that the committee refrain from taking any further actions on the two pending bills, S. 2660 and S. 2661, and I have already noted, Mr. Chairman, the letter from the Governor be inserted into the record, which I assume has been done.

That constitutes my statement.

[The prepared statement of Senator Murkowski and the letter from Governor Sheffield follows.]

STATEMENT OF SENATOR FRANK H. MURKOWSKI
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

August 8, 1984

I would like to thank the Chairman for this opportunity to present this very brief statement on S. 2660 and S. 2661, legislation withdrawing certain public lands in Alaska for the use of the Department of the Army.

It is my hope that this hearing, or additional materials submitted after its conclusion, will answer some of the lingering questions that I have about these proposed withdrawals.

Officials of Alaska's Department of Natural Resources, the Department of Fish and Game, and other State agencies have been attempting to work with the Army to fully understand several aspects associated with these land withdrawals. During the time since this legislation was introduced, Alaska State officials have been attempting to acquire copies of the previously-released Environmental Impact Statement (EIS) prepared for these withdrawals. According to a letter Alaska's Governor has submitted to the Subcommittee, the copies were note received until this past Monday. Consequently, they have not had sufficient time to fully assess the implications of these withdrawals.

However, a preliminary examination of the EIS and other currently available Army documentation fails to justify the large appropriation of water rights envisioned in each of these bills. I would ask that the Subcommittee seek a written justification from the Army outlining the specific need for these large water appropriations.

On another point, Mr. Chairman, our State officials have sought a greater understanding of the manner in which the Army proposes to manage the lands involved in these withdrawals for recreational use and wildlife enhancement. Thus far, they have been unable to gain that understanding.

I am informed that there are other potential issues which may arise after the EIS and other documentation is fully reviewed and understood. I would encourage the Army to work with the appropriate officials in the State of Alaska to address these issues and resolve any disagreements which may arise. Until these issues are resolved, Mr. Chairman, I must ask that the Committee refrain from taking any further action on S. 2660 and S. 2661.

I would ask that the letter I have here from the Governor of the State of Alaska be inserted into the record at this point. I would note that the letter also asks that any further consideration of this legislation be delayed until these issues are resolved.

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

August 8, 1984

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands
Senate Committee on Energy and
Natural Resources
Washington, D.C. 20510

Dear Senator Wallop:

I am writing for the record of your hearing on S. 2660, which withdraws and reserves certain public lands in the Big Delta and Granite Creek areas for military purposes related to Fort Greely, and S. 2661, which withdraws and reserves public lands in the Fairbanks area for military purposes related to Fort Wainwright. We have been reviewing the legislation since it was introduced on May 10, 1984. At this time, we are not prepared to provide substantive comments to the Committee, due to our inability to obtain adequate information from the Department of the Army.

Shortly after the introduction of the withdrawal legislation, we attempted to obtain copies of the previously-released Environmental Impact Statement detailing the responses to concerns raised by the State of Alaska during our review of the proposed withdrawals. Unfortunately, we received that information just a few short days ago, and our initial review of it shows that it presents unsatisfactory documentation and information on issues of concern to the State. Rather than oppose the legislation, we would prefer to work with the military on these issues, and present our substantive views for the record when Congress returns to work in September.

The State of Alaska has three areas of concern with regard to the proposed military withdrawals. First, a portion of the proposed Fort Wainwright withdrawal lies within the boundaries of the legislatively-designated Chena River Recreation Area. Second, massive amounts of water are reserved by the bills without regard for State water appropriation procedures. Third, fish and game management problems created by the withdrawals are not adequately addressed in the legislation. We believe that solutions can be found to all of these problems which will protect the important role of the military in Alaska. However, we need to discuss them at greater length with the Army in order to arrive at those solutions.

In light of the concerns I have described above, we request a delay in the Committee's consideration of the proposed withdrawal legislation until we have had an opportunity to work with Army officials to resolve the outstanding questions.

Thank you for your consideration of our views.

Sincerely,
Bill Sheffield
Bill Sheffield
Governor

cc: The Honorable Ted Stevens, U.S. Senate
The Honorable Frank Murkowski, U.S. Senate
The Honorable Don Young, U.S. House

Senator **Wallop**. Without objection, the letter from the Governor of Alaska will be inserted in the record. I can assure you that I have an interest in water withdrawals as well. I think those are appropriate matters for consideration and I would hope that if there is a major hangup on those, withdrawals might go forward while the water problems are settled later outside of this legislation. But of course that is the purpose of establishing a hearing record and we do not intend to take action until we have heard everything.

Senator **Murkowski**. Mr. Chairman, I might add that there has been a very outstanding communication and working relationship between the military and the Army and particularly within our States, and these lands for the most part have been utilized for several decades for training areas and I think without question it is the will of the State that this relationship continue.

But I have been unable to find out from my staff just what the water rights are going to be used for and nobody has been able to tell me.

Senator **Wallop**. We have questions to that end too.

Senator **Murkowski**. I appreciate the opportunity, Mr. Chairman, to be heard, and I thank you for your understanding and willingness to hold off any action until we have had a chance to address that.

Senator **Wallop**. Now, Frank Edwards on the same bill, S. 2657.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2657; ACCOMPANIED BY JIM GILLETT, CHIEF, DIVISION OF REFUGE MANAGEMENT, FISH AND WILDLIFE SERVICE

Mr. **Edwards**. Thank you, Mr. Chairman. I am Frank A. Edwards, the Assistant Director for Land Resources for the Bureau of Land Management. I have with me today Mr. Jim Gillett, who will not have a prepared statement but is available to answer questions regarding wildlife matters. He is the chief, Division of Refuge Management, with the Fish and Wildlife Service.

Mr. Chairman, I hope I can make your day and make this as enjoyable an appearance as I did the last time I appeared before you. I appreciate appearing before the subcommittee this morning to discuss S. 2657. I will summarize my statement which has been submitted for the record, and I will deal more with the specifics of the legislation and what the sections are intended to do in a more general context than what has been previously testified to.

Section 1 of S. 2657 would withdraw approximately 3 million acres in Clark, Nye, and Lincoln Counties, NV, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. The lands would be reserved for use by the Department of the Air Force as armament and high-hazard testing areas, as a training area for aerial gunnery, electronic warfare, tactical maneuvering and air support, and other defense-related uses.

Included in the areas proposed for withdrawal are lands within the Desert National Wildlife Range. Section 1 of S. 2657 provides that except to the extent required by national defense, the bill would not affect the National Wildlife Refuge System Administration Act of 1966, as it applies to the wildlife range; any Executive order or public land order affecting the wildlife range; or any memorandum of understanding between the Air Force and the Department of the Interior regarding the administration and joint use of the wildlife range.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Air Force would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands by the other military departments and agencies of the Department of Defense and the Department of Energy.

Section 2 further provides that the Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Air Force, would be required to develop a resource management plan and implementation program for the use and management of all lands affected by the act, except those comprising the Desert National Wildlife Range.

Section 3 specifies that the withdrawal that would be established by the bill is not intended to affect any water rights concerning the lands.

Section 4 provides that the withdrawal that would be established by the bill would terminate 25 years from effective date of the act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal and a procedure to be used for lands that cannot be certified as safe due to their contaminated state.

Enactment of S. 2657 would merely authorize the Air Force to continue its use of Nellis Air Force Range in the same manner it has used a majority of the land since World War II. Management of the natural resources will continue in the same manner as has been practiced in the past. This means that the primary jurisdiction of the lands in the Desert National Wildlife Range, including the protection of its fragile resources, will be with the Fish and Wildlife Service, which will manage the lands under provisions of the 1976 Memorandum of Understanding and the National Wildlife Refuge System Administration Act of 1966.

Primary jurisdiction for all other lands and resources within the Nellis Air Force range would continue to be with the Bureau of Land Management. Exclusive jurisdiction over the lands for military and national defense purposes would remain with the Air Force. This means that the Air Force alone has control over military operations on the Nellis Air Force Range.

We have identified some typographical errors in the bill. We would be pleased to work with the staff to eliminate those discrepancies.

We strongly recommend favorable action on this legislation. That concludes my statement on S. 2657.

[The prepared statement of Mr. Edwards follows:]

AUG 8 1984

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, UNITED STATES DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2657, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE AIR FORCE CERTAIN PUBLIC LANDS WITHIN THE NELLIS AIR FORCE RANGE, WITHIN CLARK, NYE, AND LINCOLN COUNTIES, NEVADA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear before the Subcommittee this morning to discuss S. 2657.

Section 1 of S. 2657 would withdraw approximately 3,034,929 acres in Clark, Nye, and Lincoln Counties Nevada, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. The lands would be reserved for use by the Department of the Air Force as an armament and high hazard testing area, a training area for aerial gunnery, electronic warfare, tactical maneuvering and air support, and for other defense-related uses.

Included in the areas proposed for withdrawal are lands within the Desert National Wildlife Range. Section 1 of S. 2657 provides that except to the extent required by national defense, the bill would not affect the National Wildlife Refuge System Administration Act of 1966, as it applies to the wildlife range; any executive order or public land order affecting the wildlife range; or any memorandum of understanding between the Air Force and the Department of the Interior regarding the administration and joint use of the wildlife range.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Air Force would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands by the other military departments and agencies of the Department of Defense, and the Department of Energy.

Section 2 further provides that the Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Air Force would be required to develop a resource management plan and implementation program for use and management of all lands affected by the Act, except those lands comprising the Desert National Wildlife Range. The Secretary of the Interior and the Secretary of the Air Force would be required to enter into a memorandum of understanding to implement the required plan and program. The lands in the Desert National Wildlife Range would be managed by the Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act of 1966, except to the extent that other uses are required for purposes of national defense.

Section 3 specifies that the withdrawal that would be established by the bill is not intended to affect any water rights concerning the lands.

Section 4 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the Act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal, and a procedure to be used for lands that cannot be certified as safe due to their contaminated state. In addition, the section specifies that if the Air Force has a continuing need for any or all of lands after the expiration date, and files an application for renewal of the withdrawal, the withdrawal will continue pending processing of the application and a decision on the proposed withdrawal by the Secretary of the Interior, and the Congress, as appropriate.

We strongly recommend enactment of this legislation.

The Las Vegas Bombing and Gunnery Range, now called Nellis Air Force Range, was established by Executive Order 8578 on October 29, 1940. Since then, the range has been the subject of two additional Executive Orders, nine public land orders, two memoranda of understanding, and one public law.

Indian Springs Auxiliary Air Field, which is contiguous to, and provides support for, the Nellis Air Force Range complex, was originally withdrawn by Public Land Order 58 on November 12, 1942. Three additional public land orders increased the acreage withdrawn for the installation to its present size of approximately 2,082 acres.

Public Land Orders 805, 1382, and 2568 transferred portions of the Nellis Air Force Range to the Atomic Energy Commission (now the Department of Energy) for development of the Nevada Test Site located between the north and south portions of the Nellis Range. The Nevada Test Site would not be withdrawn by S. 2657.

In November 1956, through a Memorandum of Understanding, the Air Force permitted the Atomic Energy Commission to utilize an additional 369,280 acres as a fully instrumented ballistic test range. This area is referred to as the Tonopah Test Range. The Air Force also entered into an agreement in November 1963 for use of 167,960 acres by the Atomic Energy Commission for underground explosion testing.

The Act of September 26, 1961, withdrew an additional 81,480 acres for the Nellis Range.

Approximately 826,000 acres of the Nellis Air Force Range overlap the western one-half of the Desert National Wildlife Range, which was first established by Executive Order 7373 of May 20, 1936.

The withdrawal created by the 1961 Act expired on September 25, 1976, and the withdrawal created by the three Executive Orders and three public land orders expired on February 16, 1977. In 1976, the Corps of Engineers, acting for the Air Force, filed two applications seeking continued use of almost all of the previously withdrawn lands, plus an additional 2,280 acres to replace 1,600 acres of the 1961 withdrawal which were relinquished to the U.S. Fish and Wildlife Service for use in connection with the Desert National Wildlife Range. By letter of November 13, 1981, the Air Force amended the existing Nellis Air Force Range application to add approximately 90,000 acres of public land proposed for uses related to national security.

The bill covers all land now in the Nellis Range, adjacent support facilities at Indian Springs, and the areas proposed for addition to the Range.

Legislation is required for the proposed withdrawal under the requirement of the Act of February 28, 1958, commonly known as the Engle Act. That Act provides that withdrawals of more than 5,000 acres of public land for any one project or facility of the Department of Defense shall be accomplished only by an Act of Congress.

Many of the weapons used at Nellis have failed to detonate, significant portions of the range are heavily contaminated. Decontaminating the range, to the extent that public use or mineral exploration could be certified as safe, would be difficult to achieve at the present time because of the relatively primitive state of existing technology and the expense of available decontamination methods. However, as I said earlier, the bill establishes a procedure regarding the administration of contaminated lands following termination of the withdrawal. Briefly, the procedure involves the retention by the Air Force of the contaminated lands that cannot be certified as safe, but requires a review of that status every 5 years.

The minerals in the Nellis Range are gold, silver, copper, lead, zinc, mercury, tungsten, sand, gravel, and limestone. Since 1954, the Air Force has purchased or leased all of the private mineral rights within the Range, with the result that none of the minerals within the Range are being developed.

As I stated previously, approximately 826,000 acres of the 3,034,929 acres involved in the bill are within the Desert National Wildlife Range which is administered by the U.S. Fish and Wildlife Service.

The Desert National Wildlife Range, which comprises 1,588,779 acres, was established by President Roosevelt by Executive Order 7373 on May 20, 1936, for the protection and preservation of desert bighorn sheep. Management for bighorn sheep primarily consists of spring and water catchment maintenance at higher elevations. The Fish and Wildlife Service and the State of Nevada also monitor sheep populations and conduct a hunt if population levels permit.

Air Force activities on the Desert National Wildlife Range are conducted subject to a Memorandum of Understanding between the Department of the Air Force and the Department of the Interior that became effective on March 11, 1976. Although the Air Force's withdrawals for the Nellis Range have expired, continued military activities on the Desert National Wildlife Range have been permitted under the terms of the MOU.

The MOU authorizes the Air Force to use specified lands within, and the airspace above, the Desert National Wildlife Range for bombing, testing, gunnery and other training activities, but requires the Air Force to conduct its training activities in accordance with specified terms and conditions which are designed to protect the wildlife and environment within the Desert National Wildlife Range. For example, the MOU requires the Air Force to conduct all air-to-air gunnery operations within specified areas at elevations of at least 10,000 feet and to avoid all indiscriminate firing. To assure minimum disturbance to the natural environment, the manager of the wildlife range must approve all construction, relocation, or rehabilitation of any road, trail, target area, or military facility on the wildlife range prior to the commencement of such construction. The MOU also provides that all internal power lines and other equipment are to be shielded and/or armored to preclude exposure of wildlife to electrical current. Under the MOU, operation of remote stations is to be noiseless and antenna radiated energy levels must be equivalent to those of a five watt portable radio so as to present no hazard to, or interference with, any form of wildlife.

The two major valley floors in the area covered by the MOU, the area below the 3,600 foot contour in Indian Springs Valley and the area below the 4,000 foot contour in the Three Lakes Valley, are used by the Air Force for facilities and equipment testing. Use of these areas for such activities is acceptable to both the Fish and Wildlife Service and the Air Force because bighorn sheep do not normally utilize habitat below these elevations.

If S. 2657 is enacted, the Air Force and the Fish and Wildlife Service will continue to coordinate their activities under the present MOU or an amended version which is acceptable to both agencies. The term of the MOU will be concurrent with the term of the Air Force withdrawal. We believe that the MOU adequately regulates military activities on the Desert National Wildlife Range and thereby protects its wildlife resources.

Management of natural resources on lands other than those within the Desert National Wildlife Range is also accomplished on a cooperative basis. For example, a five-party cooperative agreement regarding natural resource management at the Nellis Range was signed on January 27, 1977, by the Nevada Department of Fish and Game, the Bureau of Land Management, the Air Force, the Fish and Wildlife Service, and the Energy Research and Development Administration (now the Department of Energy). The agreement instituted a program to protect, develop, and manage the fish, wildlife, watershed, vegetative resources, and the wild and free-roaming horses and burros on the installation's lands. Under the agreement, the five parties cooperate in conducting resource inventories of the area; developing resource management plans for fish, wildlife, and wild horses and burros; and carrying out management decisions.

In addition, the Air Force and the Bureau of Land Management agreed, in 1962, to establish the Nevada Wild Horse Range in the north-central portion of the Nellis Range for the protection of wild and free-roaming horses and burros.

The Nevada Wild Horse Range, which comprises approximately 394,500 acres, is managed by the Bureau of Land Management in accordance with the provisions of the Wild Free-Roaming Horse and Burro Act of December 15, 1971.

Enactment of S. 2657 will merely authorize the Air Force to continue its use of Nellis Air Force Range in the same manner as it has used the majority of the lands since World War II. Management of the natural resources will continue in the same manner as has been practiced in the past. This means that the primary jurisdiction of the lands in the Desert National Wildlife Range, including the protection of its fragile resources, will be in the Fish and Wildlife Service which will manage the lands under the provisions of the 1976 MOU and the National Wildlife Refuge System Administration Act of 1966.

Primary jurisdiction of all other lands and resources within the Nellis Air Force Range would continue to be with the Bureau of Land Management. Exclusive jurisdiction over the lands for military and national defense purposes would remain with the Air Force. This means that the Air Force alone has control over military operations on the Nellis Air Force Range.

We have identified some typographical errors in the bill. We will be pleased to work with the Committee staff to eliminate the discrepancies.

This concludes my statement. I will be happy to respond to any questions on this bill.

Senator WALLOP. Thank you, Frank. Are there any questions on this?

Senator HECHT. Do you want to wait until they all do it and then have questions?

Senator WALLOP. Let's try to take them, if we can, one at a time. This would be S. 2657.

Senator HECHT. Mr. Rittenhouse, you stated that you are currently negotiating with individuals affected by the Groom withdrawal. Could you elaborate on your efforts with Mr. Medlin and the Sheahan family?

Mr. RITTENHOUSE. Yes, sir. In the case of the Sheehan family on the July 26, a letter was hand-carried to Mr. Sheahan, from Deputy Assistant Secretary Boatright of the Air Force, my superior, in which we offered to, as a result of his television interview, he requested that there was a possibility that he might want to sell some interests in his land because he felt that he was being hindered from useful application of that mining claim.

We have been in communication with Mr. Sheahan and his attorney and I understand that a letter has been submitted, I think to the House side indicating that he is very, very hopeful of the offer that the Air Force has made to him and willing to enter into negotiations pursuant to the acquisition of a term of years right to his property in return for fair market value for that right.

Senator HECHT. Would you provide that for the record, please?

Mr. RITTENHOUSE. Yes, sir.

[The information follows:]

DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330

OFFICE OF THE ASSISTANT SECRETARY

July 6, 1984

Mr Pat Sheahan
312 Country Club Dr.
Henderson, NV 89105

Dear Mr Sheahan:

With reference to your recent statements of concern, I wish to take this opportunity to assure you that the Air Force, by its proposed withdrawal of the Groom Mountain area under the public land laws, has no intention of encroaching upon your established rights or entitlements. You will continue to have access to your mining operations in the Groom Mountain Range. Your legal rights to own, operate and sell your mine are not affected by the proposed land withdrawal.

The proposed legislation states that the withdrawal of the lands is subject to valid existing rights. While the proposed legislation does allow the Secretary of the Air Force to close roads and trails in the interest of the public safety or national security, you, as a legal owner of mining claims in the Groom Mountain Range, will be granted access. Advance notification and coordination of visits, similar to current arrangements, is necessary from both public safety and national security viewpoints. The Air Force has a legitimate interest in minimizing the number of visitors to the Groom Mountain Range area. However, we would not deny access to your family, any of your employees or business visitors. We encourage continued dialogue between you and local Air Force personnel to insure mutually agreeable arrangements are made to satisfy both parties.

The Air Force could only terminate your rights through condemnation or purchase of the property. We have no intention of initiating such actions. If, however, you desire to sell your interest, the Air Force would consider acquiring the property at a fair market value based upon independent appraisal of the property, including all mineral rights.

In summary, the Air Force has no intention of interrupting your legal rights regarding your mining operation in the Groom

Mountain Range. We would like to continue the present, cooperative relationship we have with you so that you may fully utilize your property without undue fear of restricted access.

Sincerely,

JAMES F. BOATRIGHT
Deputy Assistant Secretary of the Air Force
(Installations, Environment and Safety)

DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330

OFFICE OF THE ASSISTANT SECRETARY

July 26, 1984

Mr. Pat Sheahan
312 Country Club Drive
Henderson, Nevada 89105

Dear Mr. Sheahan:

Reference my recent letter of July 6, 1984 which outlined in detail the Air Force position relative to our proposed withdrawal of the Groom Mountain area and your patented mining claim. Also, reference the recent meeting between your legal counsel, Mr. Ralph Denton, and my representatives, Colonel Robert Smith and Mr. Paul Hirsch. The Air Force recognizes that the withdrawal of the Groom Mountain area does have an impact on your family. Our efforts in minimizing the number of visitors to the Groom Mountain area have only been in the interest of public safety and national security.

Based on the above, I am proposing to you the following action be taken to mitigate the impact that this withdrawal of public land will have on your family. The Air Force will subordinate through a lease at fair market value your interest in the patented mining claim. This will allow you to retain ownership but will prohibit you from actively working the mine.

Recognizing your interest in a short-term agreement, I propose a five-year lease with the right of the Air Force to renew for an additional five years. Compensation for this lease interest will be based on a fair market value appraisal and if the Air Force elects to renew for an additional five years, an updated appraisal will be used to determine value. Furthermore, the appraiser must be acceptable to you as well as the Air Force.

I fully understand the historical importance of your mine to your family. Therefore, and as discussed with Mr. Denton, you and your family will be permitted continued access to the mine area for a limited number of family gatherings. Advance notification of these visits similar to current arrangements is necessary. It is hoped that this proposal is acceptable to you and that the Air Force may proceed in securing a mutually acceptable appraiser to determine fair market lease value.

Sincerely,

JAMES F. BOATRIGHT
Deputy Assistant Secretary of the Air Force
(Installations, Environment and Safety)

Senator HECHT. Are there others who have a claim in this region and are you trying to contact them?

Mr. RITTENHOUSE. We have made public statements over the years, sir, and we know that there are other members of the Sheahan family that are similarly involved, some related by marriage, and we are pursuing that also, but our primary contact has been Mr. Sheahan himself.

Senator HECHT. Has the Air Force also made an attempt to contact those other individuals that also have claims to certain portions of the area?

Mr. RITTENHOUSE. Yes, sir, to the extent that they are a matter of record. In the case of Mr. Medlin, which is a grazing right, we have assured him by letter that his grazing right will continue beyond the time—in other words, for renewal. We will not enter any change in the current status of his rights and he understands that. He has received that letter and I can submit that, sir, if you would like.

Senator HECHT. Please do. I am quite concerned about reports I am hearing from different groups in my State who are a bit weary of agreements with the Air Force. Their concern is that once the Air Force succeeds in passing this legislation, there will be no reason for them to cooperate further. Could you give me the assurances of the Air Force that you will continue to honor these agreements and respond in good faith in subsequent negotiations with the miners and the ranchers?

Mr. RITTENHOUSE. Most certainly, sir. I give you that assurance.

[The information follows:]

DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330

OFFICE OF THE ASSISTANT SECRETARY

July 6, 1984

Mr Steve Medlin
Star Route Box 80
Alamo, NV 89001

Dear Mr Medlin:

With reference to your recent statements of concern, I wish to take this opportunity to assure you the Air Force, by its proposed withdrawal of the Groom Mountain area under the public land laws, has no intention of encroaching on your established rights or entitlements. We are completely satisfied with our present working relationship with you and see no need to alter anything in the future.

I am sure you understand the rationale behind the Nellis Range Land withdrawal. The withdrawal should have no affect on your operations. Some of its specific provisions are for:

1. No affect on water rights. The Air Force will not interrupt your access to your springs and distribution systems.

2. Grazing allotments will still be awarded by the Bureau of Land Management with the concurrence of the Secretary of the Air Force. The Air Force will concur with your application to renew your current grazing allotment.

3. The Air Force is authorized to close trails and roads when required by military operations, public safety or national security. However, we will cooperatively schedule access times with you as we have in the past. You will continue to have access to your cattle and water.

If the Air Force constructs a fence around the withdrawn land, provisions will be made to insure access through the fence for you and your cattle.

The Air Force has every intention of continuing our present amiable, cooperative relationship with you. We understand your concerns and will strive to insure that the withdrawal does not impact your operations.

Sincerely,

JAMES F. BOATRIGHT
Deputy Assistant Secretary of the Air Force
(Installations, Environment and Safety)

Senator HECHT. Thank you. Mr. Rittenhouse, later on we will be hearing from Mr. Bob McQuivey of the Nevada Department of Wildlife. In his prepared statement Mr. McQuivey expressed his concern about a provision of S. 2657 which states that the Desert National Wildlife Refuge will continue to be managed under the National Wildlife System Administration Act of 1966, except to the extent rendered necessary by national defense.

He goes on to say that this provision will give exclusive jurisdiction to the Air Force. Why is this necessary?

Mr. RITTENHOUSE. May I say that, first of all, the premise is incorrect, sir. There was no change, as I told Senator Wallop at the outset, in the arrangement that is currently in existence. We are operating under a memorandum of understanding between the Department of the Interior and specifically the Fish and Wildlife Service on that area and that will continue. That was signed in 1976.

It was our full intention to continue with that memorandum of understanding in the same manner as administered currently. I guess the best witness to the operations out there would be Mr. Yoder, who is the range manager.

In 1982, we had a session out there at which time a number of the Nevada fish and wildlife folks were at Nellis for a briefing. I remember specifically Mr. Molini and at that time there was some considerable discussion about the big horn sheep and the relationship that they had with our operations. At that time, Mr. Yoder testified that we were most cooperative and that there was no interference with the big horn sheep area in relaticnship to our operations there.

Senator HECHT. At the end of his statement, Mr. McQuivey has several suggestions for compensating the State for the loss of wildlife and recreational opportunities brought on by this withdrawal. I would appreciate you providing for the record a point by point response to his suggestions. Could you do that for this committee?

Mr. RITTENHOUSE. Yes, sir, I might interject that it would be our position in the Air Force that that should be arrived at by the BLM, Department of the Interior, since they are the prime administrators of the land.

[The information follows:]

Point 1: The possibility of opening other portions of the Nellis Bombing Range for controlled recreational hunting on a limited and closely monitored basis.

AF Position: Currently, the Nellis Air Force Range land contained within the Desert National Wildlife Range is available for fourteen consecutive days during January and/or December for bighorn sheep hunt. This activity is conducted by the Department of the Interior, Fish and Wildlife Service. During this period the Department of the Interior has free and uninterrupted use and access to the land.

All other areas of the Nellis Air Force Range are closed to hunting and recreational use and cannot be opened due to operational and safety requirements and national security.

Point 2: Provide the necessary funding for the select purchase of private property by the state in an attempt to enlarge existing wildlife management areas or to create new ones.

AF Position: Public land withdrawal laws make no provision for such compensation when public land is withdrawn for a necessary federal agency. It is the prerogative of the Congress to authorize and appropriate compensation to the state of Nevada. The Department of the Air Force does not propose such a measure.

Point 3: Provide the necessary funding for a water development program on adjacent public land areas to increase the distribution and abundance of wildlife populations of various species, especially bighorn sheep, Gambel's quail, and chukar partridge. Our best estimate at this time for sufficient funding to support water development and acquire the most significant private lands with the best potential for wildlife habitat development is 1.5 million dollars. We sincerely request your due consideration of mitigation in this amount to offset the wildlife associated recreational loss of the 89,000 acres on the Groom Range.

AF Positon: The funding recommended by Mr. McQuivey for a water development program on public land adjacent to the Nellis Air Force Range is not an Air Force program requirement. The funding for this type of a program would be up to the Congress to authorize and appropriate.

Senator **Hecht**. Mr. Edwards, too, can that be done?

Mr. **Edwards**. Yes, I would be glad to do that. I just might point out that we have an existing five-way memorandum of understanding for management of that area, to which the Nevada State Department of Game and Fish is a signatory.

That is a 1976 agreement.

So the Nevada Game and Fish have been involved in the cooperative management of that area and that relationship will continue under the proposed bill.

[The information follows:]

Mr. McQuivey's first suggestion related to the possibility of opening other portions of the Nellis Bombing Range for controlled recreational hunting on a limited and closely monitored basis.

The opening of lands within the Nellis Air Force Range for controlled recreational hunting would be primarily an Air Force decision. By agreement with the Air Force, portions of the Desert National Wildlife Range are closed annually to military activity for a short period of time so a bighorn sheep hunt can be conducted. The Bureau of Land Management would be happy to cooperate with the Air Force in opening portions of Nellis Air Force Range to controlled recreational hunting, where such activities can occur safely; i.e., without danger to the public which may arise as a result of the presence of unexploded weapons.

Mr. McQuivey's second suggestion related to providing the necessary funding for the select purchase of private property by the State in an attempt to enlarge existing wildlife management areas or to create new ones.

The matter of eliminating any private land from the State of Nevada must be given very careful consideration. Private land is a scare commodity in that State, and any attempt to further reduce it should be subjected to intensive scrutiny and analysis.

Mr. McQuivey's third suggestion related to providing the necessary funding for a water development program on adjacent public land areas to increase the distribution and abundance of wildlife populations of various species, especially bighorn sheep, Gambel's quail, and chukar partridge. He requested the Senate's consideration of mitigation to offset the wildlife associated recreational loss of the 89,000 acres on the Groom Range.

This proposal would appear to be more appealing than is the suggestion to purchase private land. Given the potential loss of recreational opportunities on the Groom Range area, enchancing the wildlife habitat of areas outside of the proposed withdrawal area might be a logical and worthwhile method for the Air Force to mitigate the impacts of its actions. This, again, is a matter which falls within the jurisdiction of the Air Force. The Department of the Interior would be happy to work with them on a project of this nature.

Senator HECHT. Thank you very much. Mr. Chairman, no further questions for the moment.

Senator DOMENICI. I wonder if—I just got a call that I am wanted on the floor with reference to an amendment that is pending, I wonder if the Chair would permit me to ask two or three questions out of sequence.

Senator WALLOP. I will, and let me also say that there are two witnesses, Mr. Ed Robbins of Dixie Valley, NV, and Dr. Richard Bargen of Fallon, NV who have a 3:30 airplane so they have requested that they be permitted to speak out of turn. So I may ask them in an attempt to try to get their 5 minutes in to just come and perch themselves in front of the administration witnesses.

Senator DOMENICI. Would it accommodate for us to have the gentlemen come back for us rather than do it now? Would that be more accommodating for the Chair?

Senator WALLOP. Why don't you just go ahead and ask your questions.

Senator DOMENICI. Let me ask either Mr. Rittenhouse or Mr. Cronin, in the legislation that was introduced at your request by the chairman of the committee, section 4 says "All hunting, fishing, trapping shall be conducted in accordance with fish and game laws in the State of New Mexico." Then immediately under that No. 4, a 17-acre feet of water that is not heretofore appropriated is hereby reserved by the Secretary.

A further provision of that says if they determine that they need further water, then they will do that by complying with State law. Why can't we work something out where you will abide by State law on all of it instead of everything in excess of 17-acre feet?

Mr. CRONIN. Senator, I am William Cronin, the Army's witness. Basically, our concern was that in view of the enormous amount of water that is being sought by the city of El Paso and the reaction as we understand of the State to this request, we felt that we were little fellows in a rather big fight and that it would be more appropriate for us to seek a small withdrawal, 17-acre feet, which comes to 5.5 million gallons per day, which would be distributed 3 million gallons per day for White Sands whose water table has dropped perceptibly and the rest of it distributed among the base camps.

We are talking in terms of water to meet normal growth at those three base camps over a 25-year period. It is not a lot of water, despite what has been the perception on the part of some.

Senator DOMENICI. I understand it is not.

Mr. CRONIN. We further say, sir, that any further requests——

Senator DOMENICI. I understand that. The bill says that you had introduced that further requests would be handled in a normal manner. You have explained to me, if I understood your answer, that since there is a very large and ongoing fight between New Mexico and El Paso that for the 17 acres you would seek congressional approval rather than involve yourself in that very large dispute.

Mr. CRONIN. Yes, sir.

Senator DOMENICI. It would appear to me, and I would ask you to do two things, first, there is a brand new decision out of the Federal court in New Mexico that I think you ought to familiarize yourself with before you ask us for this, because I think there is ample provision for you to apply, and the court has ruled it constitutional for New Mexico to handle nonappropriated water in the manner provided by State law and I frankly think you ought to familiarize yourself with it and agree to abide by it.

But that is not your decision; that is mine at this point. I would hope you could see your way clear to do that. I think it would be perfectly acceptable and you would end up being considered and it is something that in light of the dispute the reverse works for. I think if you were willing to solve it in a normal manner rather than mandate it, I think you would be better off in this case.

That is my admonition. I hope you can work it out that way and we will see you on the issue before we report the bill out.

I have one question of whoever handles the grazing after you acquire this. Who will do that?

Mr. CRONIN. The grazing is handled by the Bureau of Land Management.

Senator DOMENICI. Bureau of Land Management witness, let me just ask you, as I understand it, from time to time this land is put out to grazing to outsiders who graze their cattle on it by permission. I would ask if you would be willing before we report this bill out to sit down with me and my staff and see if we can work out some added flexibility to you and your department where you might make this land available for traditional users under certain circumstances, draught and the like, and not in the manner that it is presently put out for permit. Could we try that?

Mr. EDWARDS. Yes, Senator, we would be glad to sit down and discuss that with you.

Senator **Domenici**. Then the military, could you meet with me again, and my staff, and go into more detail as to the present use of the 600,000 plus acres, what you use it for, how often it is used, so that before we mark up, I will be familiar with your contention and for my own opinion as to whether all of this land is indeed needed or not for this purpose?

Mr. **Cronin**. I would be happy to meet with you.

Senator **Domenici**. Thank you. Thank you very much, Mr. Chairman.

Mr. **Edwards**. Could I just ask a question, Senator? Will your staff be in contact with us in that regard or how would you like to handle it?

Senator **Domenici**. We will be in contact on both and arrange the meetings. Thank you very much.

Senator **Wallop**. Very well, we will move on and I have been informed that Mr. Robbins and Dr. Bargen will testify at 3:15 and so we will do that. In the meantime, I will move on and ask that Mr. Cronin testify first and then Assistant Director Edwards second on S. 2658.

STATEMENT OF WILLIAM J. CRONIN, CHIEF, LEGISLATIVE SERVICES OFFICE, DIRECTORATE OF REAL ESTATE, OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY, ON S. 2658

Mr. **Cronin**. Mr. Chairman, I am William J. Cronin, chief of the Legislative Services Office, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army. I represent the Department of the Army at this hearing on S. 2658, a bill to withdraw for 25 years some 608,000 acres of land in New Mexico for use by the Army as a training and weapons testing area and other defense-related uses.

I ask that you place my full statement in the record. I will summarize due to the brevity in time.

Let me say that the Department of the Army supports the bill and recommends its enactment.

The area is known as the McGregor Range and it is located northeast of El Paso, TX in Otero County, NM, approximately 15 miles northeast of the main post of Fort Bliss. The lands have been used by the Army continuously since 1957 for weapons testing and training purposes, including tactical training, missile firing, and artillery training. There is a continuing need for the lands for these purposes.

Fort Bliss is the U.S. Air Defense Center, with an acronym of USADC. McGregor Range is an integral component of the USADC and is used for the training of units in the use of air defense systems and for the testing of those weapon systems. It provides the necessary large land mass for the accomplishment of the training and testing. There are only two defense centers in the world the other one is in the Soviet Union.

There is a continuing need for both the airspace and the surface of the entire McGregor Range. The airspace is required for flight and maneuvering of target aircraft. Altitude restrictions vary with the weapon-target combination and with existing weather conditions. The airspace serves as a vertical safety zone for missile flights, weapons trajectory, and debris scatter.

The land surface is designated as a danger zone to meet safety requirements for firing of missiles and rockets. Effective use of McGregor Range is a compromise between maximum missile range and the reduced geographic range which allows some degree of realism in target engagement. The full geographic range length is required to allow time for range safety personnel to command the destruction of missiles in the event of a fly-by, that is, a missed target, or an errant missile.

In summary, the U.S. Army Air Defense Center has a continuing need for the entire McGregor Range to perform its defense essential training mission. Mr. Chairman, we have a map up on the easel, a map which will orient you to the location in juxtaposition to the White Sands missile range, a large R&D type range.

The McGregor is outlined in green. The White Sands missile range is outlined in yellow. To the south below the New Mexico-Texas border is the cantonment area or main post of Fort Bliss and in between the main post and the McGregor Range are various maneuver areas which form a part of the entire complex of Fort Bliss.

On the more detailed map, you will see within the McGregor Range itself an area in sandy color or light brown, which is the main area for the missile launching and flight, and an area colored in green, the so-called Otero Mesa, which is land on which we do not maneuver either track or wheel vehicles except wheel vehicles along established roads. The entire green area is leased for grazing purposes, subject to reasonable restrictions so that the use for grazing purposes will be compatible with the operation of the range and the flight of missiles.

There is one area that the map does not reflect, which has been additionally included for grazing purposes, which is located in the northwest area—indicating.

Senator **Wallop**. Those are essentially your safety zones. Is that correct?

Mr. **Cronin**. They are the safety zones for the landing of debris, for the impact of missiles themselves which get through the intercept. They are what we refer to as secondary danger zones.

There is a misconception in some areas that these are buffer zones and that is not the case. There is a considerable amount of debris resulting from the intercept of missiles which has landed in the area. Therefore, we are most careful as to what uses we make of that area in a couse basis.

Mr. Chairman, that concludes my prepared statement. I have with me representatives of the Air Defense Center from Fort Bliss and we together will be happy to respond to your questions.

[The prepared statement of Mr. Cronin follows:]

STATEMENT

BY

WILLIAM J. CRONIN

CHIEF, LEGISLATIVE SERVICES OFFICE

DIRECTORATE OF REAL ESTATE

OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

ON

S. 2658, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE MCGREGOR RANGE, OTERO COUNTY, NEW MEXICO, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES."

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

SECOND SESSION, 98TH CONGRESS

AUGUST 8, 1984

Not for publication until released by the Subcommittee on Public Lands and Reserved Waters, Committee on Energy and Natural Resources, United States Senate.

Good afternoon, Mr. Chairman and members of the Committee. I am William J. Cronin, Chief of the Legislative Services Office, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army. I have been designated to represent the Department of the Army at this hearing on S. 2658, 98th Congress, the purpose of which is to withdraw for 25 years from all forms of appropriation under the public land laws approximately 608,000 acres in New Mexico for use by the Department of the Army as a training and weapons testing area, and other defense related uses.

The Department of the Army supports the bill and recommends enactment.

The area proposed for withdrawal is known as McGregor Range, which is located northeast of El Paso, Texas, in Otero County, New Mexico, approximately 15 miles northeast of the Main Post of the Fort Bliss Military Reservation. The lands have been used by the Army continuously since 1957 for weapons testing and training purposes, including tactical training, missile firing, and artillery training. There is a continuing need for the lands for these purposes. Withdrawals of more than 5,000 acres of public land for the Department of Defense must be accomplished by legislation (Act of February 28, 1958, Pub. L. No. 85-337, 72 Stat. 27). The purpose of this bill is to meet that requirement.

Fort Bliss is the United States Air Defense Center (USADC), and it incorporates the United States Army Air Defense School (USAADS). McGregor Range is an integral component of the USADC and is utilized for activities which relate to its missions. McGregor Range is used for the training of units in the use of air defense systems, and for the testing of various weapons systems, both missile and conventional air defense weapons. It provides the necessary large land mass for the accomplishment of the required training and testing. The Range is also used for desert warfare training and airborne training when not in use for missile firings. There are only two defense centers in the world, the other center being in the Soviet Union.

There is a continuing need for both the air space and surface of the entire McGregor Range. The air space is required for flight and maneuvering of target aircraft for missile launch sites. Altitude restrictions, which are coordinated with the Federal Aviation Authority, vary with the weapon-target combination and with existing weather conditions over the Range. The air space serves as a vertical safety zone for missile flights, weapons trajectory and debris scatter. In addition, Operational Readiness Exercises, and tactical training for Fort Bliss and USAF aircraft and troop carrying aircraft, are conducted in the airspace between missile firings.

The land surface is designated a danger zone to meet governing safety requirements for firing of guided missiles and heavy rockets. Effective use of McGregor Range, with its existing longitudinal axis to the north-northeast is a compromise between maximum missile range and reduced geographic range which allows some degree of realism in target engagement. The full geographic range length is required to allow response time for range safety personnel to command the destruction of missiles in the event of a fly-by (missed target) or an errant missile.

In summary, the United States Army Air Defense Center has a continuing need for the entire McGregor Range to perform its defense essential training mission.

That concludes my prepared statement, Mr. Chairman. With me today are representatives of the Air Defense Center. We will be happy to answer any questions you might have.

Senator **Wallop**. Thank you very much. Mr. Edwards, on S. 2658.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2658; ACCOMPANIED BY JIM GILLETT, CHIEF, DIVISION OF REFUGE MANAGEMENT AND WILDLIFE SERVICE

Mr. **Edwards**. Thank you, Mr. Chairman. I am Frank Edwards, Assistant Director for Land Resources for the Bureau of Land Management.

My full statement on S. 2658 has been submitted for the record. I will summarize that briefly.

Section 1 of S. 2658 would withdraw, subject to valid existing rights, approximately 608,000 acres of public land in Otero County, NM for use by the Army as a training and weapons testing area and for other defense purposes.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Army would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands by other military departments and agencies of the Department of Defense.

The Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Army, would be required to develop a resource management plan and implementation program for use and management of the lands affected by the act.

The Secretary of the Interior and the Secretary of the Army would be required to enter into a memorandum of understanding to implement the required plan and program.

Section 3 provides that all hunting, fishing, and trapping on the lands shall be conducted in accordance with the fish and game laws of the State of New Mexico.

Section 4 would reserve for future military purposes 17-acre feet per year of water located on water that would be over or appurtenant to the lands affected by this bill. We have had previous discussion on that.

Section 5 provides that the withdrawal that would be established by the bill would terminate 25 years from the effective date of the act. That section establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal and the procedure to be used for lands that cannot be certified as safe due to their contaminated state.

The Department of the Interior recommends the enactment of this legislation. That concludes my comments on this bill.

[The prepared statement of Mr. Edwards follows:]

AUG 8 1994

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2658, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE MCGREGOR RANGE, OTERO COUNTY, NEW MEXICO, FOR USE AS A TRAINING AND WEAPONS TESTING AREA AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear before the subcommittee today to discuss the Department of the Interior's position on S. 2658.

Section 1 of S. 2658 would withdraw, subject to valid existing rights, approximately 608,384.87 acres of public land in Otero County, New Mexico, for use by the Department of the Army as a training and weapons testing area, and for other defense purposes.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Army would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands by the other military departments and agencies of the Department of Defense.

The Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Army, would be required to develop a resource management plan and implementation program for use and management of the lands affected by the Act. The Secretary of the Interior and the Secretary of the Army would be required to enter into a memorandum of understanding to implement the required plan and program.

Section 3 provides that all hunting, fishing and trapping on the lands shall be conducted in accordance with the fish and game laws of the State of New Mexico.

Section 4 would reserve for future military purposes seventeen acre feet per day of water located on, under, over or appurtenant to the lands affected by S. 2658. The section also sets out the procedure to be used by the Secretary of the Army in acquiring additional water rights.

Section 5 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the Act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal, and a procedure to be used for lands that cannot be certified as safe due to their contaminated state. In addition, the section specifies that if the Army has a continuing need for any or all of lands after the expiration date, and files an application for renewal of the withdrawal, the withdrawal will continue pending processing of the application and a decision on the proposed withdrawal by the Secretary of the Interior, and the Congress, as appropriate.

We strongly recommend that this legislation be enacted.

McGregor Range is comprised of a total of approximately 697,471 acres of land, including the 608,384 acres of public land involved in S. 2658, 71,083 acres of land owned in fee by the Army, and 18,004 acres of lands within the Lincoln National Forest that are used on a cooperative basis with the Forest Service.

The lands involved in the proposed withdrawal were originally withdrawn by two public land orders in 1957; however, the withdrawals have expired. The lands have been used continuously by the Army since 1957 for weapons testing and training purposes, including tactical training, missile firing, and artillery training.

Legislation is required for the proposed withdrawal in accordance with the Act of February 22, 1958, which provides that withdrawals of more than 5,000 acres of public land for any one project or facility of the Department of Defense may be accomplished only by an Act of Congress.

Many of the weapons used during the exercises conducted on the lands failed to detonate, significant portions of the range are heavily contaminated. Decontamination of the range, to the extent that public use or mineral exploration could be certified as safe, would be difficult to achieve at the present time because of the relatively primitive state of existing technology and the expense of available decontamination methods. However, the bill establishes a procedure for the administration of contaminated lands following an intention to terminate the withdrawal. The procedure involves the retention, by the Army, of the contaminated lands but requires a review of that status every 5 years.

The locatable minerals which occur on the range are gypsum and high calcium limestone. There are no mining claims within the range. The Minerals Management Service has classified most of the lands in the range as prospectively valuable for oil and gas. However, no commercial production has been obtained. In fact, all nine wells that have been drilled on the Range were dry holes.

The natural resources of the McGregor Range are managed on a cooperative basis. For example, since 1966, livestock grazing has been authorized on certain portions of the Range pursuant to a Memorandum of Understanding between the Bureau of Land Management and the Department of the Army. In addition, under a 1974 Cooperative Plan-Agreement for Conservation and Development of Fish and Wildlife Resources on the McGregor Range, the Bureau of Land Management, the Fish and Wildlife Service, the New Mexico Department of Fish and Game, and the Department of the Army, share responsibilities for natural resource management on the Range.

The cooperative management practices that have taken place at the McGregor Range throughout the period of the Army's use of the public lands at the Range have proved beneficial to all the involved agencies, and are expected to continue during the period of the proposed withdrawal.

We have identified some typographical errors in the bill. We would be happy to work with the committee staff to correct the errors.

This concludes my statement. I would be happy to answer any questions on this bill.

Senator WALLOP. Thank you, Mr. Edwards. Let me make an observation before we go on, because the next bill, S. 2659, which is again Mr. Rittenhouse and Mr. Edwards, as I look down this list of bills all of them have different methods of describing the lands proposed for withdrawals. I am going to ask the Department of the Interior and the Department of Defense to work with the subcommittee staff to develop some kind of language, to have maps of the area showing the exterior boundaries as the controlling documents in all of this, and then subsequently, I am going to ask that in any future venture to work with us to help define some kind of standard means of communicating this, so that we don't have a whole series of bills around with different means of getting at similar kinds of ends.

I think it is time that the land managing agencies of the country began to use something reasonably akin to practical English.

Mr. EDWARDS. If I may, I would like to comment a little on that. If we proceed with that type of an arrangement, it seems that we need some flexibility for making amendments or changes in the event that there was an error in the plotting of the land on the map that we did not discover until after enactment of the bill.

Senator WALLOP. That is the whole point. The process allows that, but if you want to know why some State agencies get quirkish about things, which are otherwise not really all that threatening to them, it is because of that sort of process by which boundaries can be changed by moving lines on a map.

Mr. EDWARDS. I understand. One further comment is that as lands are surveyed at a later date, their descriptions may change in terms of lotting and it might be beneficial to have both the legal description and a map, the map to clarify.

Senator WALLOP. I am not suggesting we decide which manner right now, only that we develop a consistent manner, so that in each future instance we can do it. But you have the process and it is as vulnerable to a misplaced line on the map is as it is to a dropped line in the description.

Mr. EDWARDS. I understand.

Senator WALLOP. What we need to do is just get some consistency.

Mr. EDWARDS. We will be glad to work with you on it.

Senator WALLOP. All right, S. 2659, Mr. Rittenhouse.

STATEMENT OF JOHN O. RITTENHOUSE, DEPUTY, INSTALLATIONS MANAGEMENT, U.S. AIR FORCE ON S. 2659

Mr. Rittenhouse. Mr. Chairman, I am John O. Rittenhouse, or Jack, Deputy for Installations Management, Office of the Deputy Assistant Secretary of the Air Force, Installations, Environment and Safety. I am pleased to appear before the committee to discuss S. 2659, which withdraws and reserves 2,664,423 acres of public land in southern Arizona to the Department of the Air Force for 25 years, subject to all valid and existing private property rights.

In the interest of time, I will summarize. I have submitted a statement. I would say at the outset, Senator, that the withdrawal here——

Senator Wallop. Apparently you brought a map and if we could just put it up.

Mr. Rittenhouse. By reference to the map, it may help as I go through this first part of the discussion, but I would say at the outset what we are applying for here is essentially the same as has been in the past. I guess you could characterize this, all of these bills, Army, Navy and Air Force, as rewithdrawals of currently utilized public lands in accordance with the Engle Act requirements.

The Luke Air Force range complex provides Department of Defense tactical forces an operational training area to develop and maintain the combat skills essential in the defense of our Nation. The public land areas provide the land and airspace necessary for air to ground weapons training, electronic warfare, aerial gunnery and tactical and maneuvering and air support.

The Luke Air Force range is divided into two parts, the eastern or Gila Bend segment and the western or Yuma segment. The Gila Bend segment contains approximately 1,650,000 acres and the Yuma segment contains 1,015,000 acres. Included within the Luke Air Force Range are 825,440 acres managed by the United States Fish and Wildlife Service. This constitutes 96 percent of the 860,000-acre Cabeza Prieta National Wildlife Refuge.

A little background, in 1941 President Roosevelt established the range by authorizing the withdrawal initially of 1,077,000 acres of public land. Following World War II and the Korean conflict, there were a series of executive orders, public land orders and administrative action that enlarged the range to its current size.

The need for enlarging the range parallels the development of Luke Air Force Base, as well as other Department of Defense installations in the Southwestern United States and the need for air-to-ground and air-to-air weapons training for the Nation's tactical forces. The range is currently used by active and reserve components, not only by the Air Force, but the Navy and Marine Corps as well to maintain combat proficiency.

The one thing I might add to this is that the range withdrawal that we see here interrelates very nicely with the Cabeza Prieta National Wildlife Area, and I will just say two sentences on that. In 1939, the Cabeza Prieta National Wildlife Refuge was established for the conservation and development of natural resources over 860,000 acres of public land. The subsequent military withdrawals in 1940 and 1941 of 825,440 acres of this land took precedence over the refuge but did not rescind or revoke its status.

The conditions of the military withdrawals provide for multiple use and this area is jointly managed under a memorandum of understanding between the Department of the Interior and the Department of Defense. That memorandum was established in 1960 and renewed in 1975 and prohibits any contact with the surface, like bombing or things like that, within that area, but it allows the continued use of the airspace for air-to-air gunnery and tactical training. And that is all for that area.

The Bureau of Land Management in the Department of Interior will manage the land and resources, except for Cabeza Prieta, under the principle of multiple use. The issuance of agreements of rights-of-way, leases and easements are the responsibility, and will continue to be the responsibility of BLM.

We have a five-party cooperative agreement, much again analgous to the Nellis withdrawal. The five parties that are signatories are the Air Force, the Navy and Marine Corps, the Bureau of Land Management, U.S. Fish and Wildlife Service, and the Arizona Game and Fish Department. This cooperative agreement is based on the mutual desire of all the signatories to work for the common purpose of developing, maintaining and managing the natural resources within the Luke range.

I might add that we do have a permanent full-time employee at the Luke range of the Air Force who works directly on a full-time basis with the Fish and Wildlife people in the BLM.

That basically concludes my summarization of the proposed statement that has been submitted for the record, sir.

[The prepared statement of Mr. Rittenhouse follows:]

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Committee on Energy and Natural Resources
United States Senate

STATEMENT OF

JOHN O. RITTENHOUSE

DEPUTY FOR INSTALLATIONS MANAGEMENT

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE

(Installations, Environment and Safety)

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

AUGUST 8, 1984

Mr. Chairman and members of the Committee, I am John O. Rittenhouse, Deputy for Installations Management, Office of the Deputy Assistant Secretary of the Air Force (Installations, Environment, and Safety). I am pleased to appear before this Subcommittee to discuss S. 2659 which withdraws and reserves 2,664,423 acres of public land in southern Arizona to the Department of the Air Force for 25 years, subject to all valid and existing private property rights.

INTRODUCTION

The Luke Air Force Range complex provides Department of Defense tactical forces an operational training area to develop and maintain the combat skills essential in the defense of our nation. The public land areas provide the land and airspace necessary for air-to-ground weapons training, electronic warfare, aerial gunnery, and tactical maneuvering and air support. The Luke Air Force Range is divided into two parts - the eastern or Gila Bend segment and the western or Yuma segment. The Gila Bend segment contains approximately 1,650,000 acres and the Yuma segment contains approximately 1,015,000 acres. Under a joint-use agreement between the Air Force and the Navy, the airspace over the Yuma segment is controlled by the Navy and the airspace over the Gila Bend segment is controlled by the Air Force. Ground access to these segments is controlled by the military service controlling the airspace. Navy control is administered through the Marine Corps Air Station, Yuma, Arizona, while Air Force control is through Luke Air Force Base. Included within the Luke Air Force Range are 825,440 acres managed by the United States Fish and Wildlife Service. This totals 96 percent of the 860,000-acre Cabeza Prieta National Wildlife Refuge (NWR).

BACKGROUND

By Executive Order 8892, September 5, 1941, President Roosevelt established the Luke Air Force Range by authorizing the withdrawal of 1,077,500 acres of public land. Following World War II and the Korean Conflict, a series of executive orders, public land orders, and administrative action enlarged the Range to its current size of approximately 2,664,423 acres of public land. The need for enlarging the Range parallels the development of Luke Air Force Base, as well as other Department of Defense installations in the Southwestern U.S., and the need for air-to-ground and air-to-air weapons training for our nation's tactical forces. The Range is used by active and reserve components of the Air Force, Navy, and Marines to maintain aircrew combat proficiency.

The Luke Air Force Range is divided into 13 separate complexes. Four of these are in the Yuma segment under the operational control of the Marine Corps Air Station, Yuma. The remaining nine complexes are in the Gila Bend segment and are under the operational control of Luke Air Force Base. Support for the Gila

Bend segment is provided by the Gila Bend Air Force Auxiliary Field. This facility is a satellite installation of Luke Air Force Base with mission responsibility to manage, maintain, support, and operate the range complexes within the Gila Bend segment. The Marine Corps Air Station, Yuma, provides similar support for the Yuma segment.

INTERRELATIONSHIPS

Cabeza Prieta National Wildlife Refuge

In 1939, the Cabeza Prieta National Wildlife Refuge was established for the conservation and development of natural resources over 860,000 acres of public land. The subsequent military withdrawals in 1940-1941 of 825,440 acres of this land took precedence over the refuge but did not rescind or revoke its status. The conditions of the military withdrawals provided for multiple use and this area is jointly managed under a Memorandum of Understanding (MOU) between the Department of the Interior and the Department of Defense. The MOU which was established in the 1960 and renewed in 1975 prohibits bombing but allows the continued use of the airspace for air-to-air gunnery and tactics training.

Bureau of Land Management

The Department of the Interior, Bureau of Land Management (BLM), will manage the land and resources (except the Cabeza Prieta NWR) under the principle of multiple use. Issuance of agreements, rights-of-way, leases, and easements will be the responsibility of BLM. All such uses and any agreement are secondary to the military use of the land and are authorized only with concurrence of the Air Force.

Five-Party Cooperative Agreement

Under the umbrella of numerous public laws and the principle of multiple use, a five-party agreement was effected in July 1982. Signatories to this agreement are the Air Force, Navy/Marine Corps, BLM, U.S. Fish and Wildlife Service, and the Arizona Game and Fish Department. The cooperative agreement is based on the mutual desire of the signatories to work in harmony for the common purpose of developing, maintaining, and managing the natural resources within the Luke Air Force Range. We advocate the continuance of the cooperative agreement to ensure that the needs and concerns of all involved agencies are addressed.

Minerals

The Mining Law of 1872 presently governs the exploration and extraction of hard rock minerals from public lands. This law provides for a system which allows the locator of valuable minerals exclusive right of possession and enjoyment of the surface and subsurface rights, including construction of any structures directly related to the mining operation. This system is neither consistent nor compatible with Department of Defense or Air Force operations. Therefore, the public land within the Luke Air Force Range is proposed for withdrawal from the operation of the Mining Law of 1872.

The Mineral Leasing Law of 1920 allows leasing of public land containing deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite, all vein type solid hydrocarbons, and gas. The exploration for and exploitation of these minerals on withdrawn lands under the concept of multiple use are evaluated by the surface managing agency on a case-by-case basis to determine compatibility. If the Air Force, as surface managing agency, determines that multiple use is feasible on a non-interference basis, then the Bureau of Land Management, as the responsible federal agency, can issue mineral leases.

SUMMARY

The Luke Air Force Range provides the land and airspace needed to develop and maintain the combat skills essential to this Nation's tactical forces. The continued use of the public land comprising the Range is necessary to meet the needs of national security. This Bill provides for the continuation of the withdrawal of public lands previously withdrawn under various public land orders and executive orders. Furthermore, it reaffirms the continued joint-use of the Cabeza Prieta National Wildlife Refuge under the existing Memorandum of Understanding between the Department of the Air Force and the Department of the Interior. Additionally, the Air Force will continue to work within the framework of the Five-Party Cooperative Agreement to develop, maintain, and manage the natural resources within the Luke Air Force Range.

This concludes my prepared remarks. Thank you, Mr. Chairman, for the opportunity to provide the Air Force position on S. 2659.

Senator Wallop. Thank you.
Mr. Edwards.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2659; ACCOMPANIED BY JIM GILLETT, CHIEF, DIVISION OF REFUGE MANAGEMENT FISH AND WILDLIFE SERVICE

Mr. Edwards. Thank you, Mr. Chairman. I am Frank Edwards, asssistant Director for Land Resources for the Bureau of Land Management. I appreciate the opportunity to appear before this subcommittee to testify on S. 2659. I have submitted a prepared statement for the record and will summarize that statement.

Section 1 of S. 2659 would withdraw approximately 2,600,000 acres of public land in Maricopa, Pima and Yuma Counties of Arizona, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws.

Included in the areas proposed for withdrawal are lands within the Cabeza Prieta National Wildlife Refuge. Section 1 of S. 2659 provides that, except to the extent required by national defense, the bill would not affect the National Wildlife Refuge System Administration Act of 1966, as it applies to the wildlife refuge or any Executive order or public land order affecting the wildlife refuge or any memorandum of understanding between the Air Force and the Department of the Interior regarding the administration and joint use of the wildlife refuge.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Air Force would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands by other military departments and agencies of the Department of Defense.

Section 2 provides that the Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Air Force, would be required to develop a resource management plan and implementation program for use and management of all lands affected by the act, except those lands comprising the Cabeza Prieta National Wildlife Refuge.

Section 3 specifies that the withdrawal that would be established by the bill is not intended to affect any water rights concerning the lands.

Section 4(a) requires the Secretary of the Interior prior to the 10th anniversary of the date of enactment of the bill to prepare and transmit to Congress an analysis of the mineral potential of the lands that would be withdrawn by the bill, together with the Secretary's recommendations, developed in consultation with the Secretary of the Air Force, identifying which, if any, of the lands should be opened to operation of the mining laws.

Section 4(b) provides that the Secretary of the Interior shall modify or terminate the withdrawals to allow operation of the mining laws within Luke Air Force range, upon adoption by the Congress of a joint resolution stating that such action should be taken.

Section 5 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal and a procedure to be used for administering lands that cannot be certified as safe due to their contaminated state.

The Department strongly recommends enactment of this bill. That concludes my statement.

[The prepared statement of Mr. Edwards follows.]

AUG - 8 1984

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2659, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE AIR FORCE CERTAIN PUBLIC LANDS WITHIN THE LUKE AIR FORCE RANGE, MARICOPA, PIMA, AND YUMA COUNTIES, ARIZONA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of the Interior's position on S. 2659.

Section 1 of S. 2659 would withdraw approximately 2,664,423 acres of public land in Maricopa, Pima and Yuma Counties Arizona, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws.. The lands would be used by the Department of the Air Force as an armament and high hazard testing area, a training area for aerial gunnery, electronic warfare, tactical maneuvering and air support, and for other defense-related uses.

Included in the areas proposed for withdrawal are lands within the Cabeza Prieta National Wildlife Refuge. Section 1 of S. 2659 provides that, except to the extent required by national defense, the bill would not affect the National Wildlife Refuge System Administration Act of 1966, as it applies to the wildlife refuge, any executive order or public land order affecting the wildlife refuge, or any memorandum of understanding between the Air Force and the Department of the Interior regarding the administration and joint use of the wildlife refuge.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Air Force would have exclusive jurisdiction over the managemnt of the lands for military purposes and could authorize use of the lands by the other military departments and agencies of the Department of Defense.

Section 2 further provides that the Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Air Force, would be required to develop a resource management plan and implementation program for use and management of all lands affected by the Act, except those lands comprising the Cabeza Prieta National Wildlife Refuge. The Secretary of the Interior and the Secretary of the Air Force would be required to enter into a memorandum of understanding to implement the required plan and program. The lands in the Cabeza Prieta National Wildlife Refuge would be managed by the Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act of 1966, except to the extent that other uses are required for purposes of national defense.

Section 3 specifies that the withdrawal that would be established by the bill is not intended to affect any water rights concerning the lands.

Section 4(a) requires the Secretary of the Interior, prior to the tenth anniversary of the date of enactment of the bill, to prepare and transmit to the Congress an analysis of the mineral potential of the lands that would be withdrawn by the bill, together with the Secretary's recommendations, developed in consultation with the Secretary of the Air Force, identifying which, if any, of the lands should be opened to operation of the mining laws. Section 4(b) provides that the Secretary of the Interior shall modify or terminate the withdrawals to allow operation of the mining laws within Luke Air Force Range, upon adoption by the Congress of a joint resolution stating that such action should be taken.

Section 5 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the Act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal, and a procedure to be used for administering lands that cannot be certified as safe due to their contaminated state. In addition, the section specifies that if the Air Force has a continuing need for any or all of lands after the expiration date, and files an application for renewal of the withdrawal, the withdrawal will continue pending processing of the application and a decision on the proposed withdrawal by the Secretary of the Interior, and the Congress, as appropriate.

We strongly recommend enactment of this legislaion.

A portion of the lands comprising what is now Luke Air Force Range was withdrawn and reserved for use as an aerial gunnery range by Executive Order 8892, on September 5, 1941. Since then, the range as been the subject of three additional Executive Orders, five public land orders, one special use permit, several memorandums of understanding, and one public law, the Act of August 24, 1962.

By its terms, the 1962 Act withdrew 479,100 acres for an initial 10-year period with an option to renew the withdrawal for 5 years. A later survey established that the area withdrawn actually comprised 485,661 acres. The option was exercised by the Air Force and the withdrawal created by the Act expired on August 23, 1977. In April 1977, the Corps of Engineers, acting for the Air Force, filed an application to withdraw again the lands covered by the 1962 Act, and, in addition, approximately 17,131 acres of public land that had been used by the Air Force under a Special Land Use Permit. It was subsequently concluded that management efficiency would be increased if all of the lands comprising the range were withdrawn through one action. Thus, the bill would withdraw all land now in the Luke Range plus the 17,131 acres proposed for addition to the installation.

Legislation is required for the proposed withdrawal under the requirement of the Act of February 28, 1958 that withdrawals of more than 5,000 acres of public land for any one project or facility of the Department of Defense be accomplished only by an Act of Congress.

Gila Bend Air Force Auxiliary Field, a satellite installation of Luke Air Force Base, Arizona, is located within, and provides support for, various operations conducted in the eastern portion of Luke Air Force Range. Approximately 1,885 acres of the range complex have been set aside for purposes connected with that facility.

Under a 1958 cooperative agreement between the Department of the Navy and the Department of the Air Force, the airspace above the land comprising Luke Air Force Range has been divided into two sections. The eastern section, comprising approximately 1,651,235 acres, is controlled by the Air Force through Luke Air Force Base, while the western section comprising approximately 1,013,188 acres, is controlled by the U.S. Navy through the U.S. Marine Corps Air Station, Yuma, Arizona.

Approximately 825,440 acres of the 2,664,423 acres involved in S. 2659 are within the Cabeza Prieta National Wildlife Refuge which is administered by the U.S. Fish and Wildlife Service.

The refuge, which presently comprises 940,000 acres, was established by President Roosevelt by Executive Order 8038 on January 25, 1939, as the Cabeza Prieta Game Range. Public Land Order 5493, dated June 10, 1975, changed the name of the Game Range to the Cabeza Prieta National Wildlife Refuge and transferred sole jurisdiction over the area to the U.S. Fish and Wildlife Service.

The refuge was established for the conservation and development of natural wildlife resources. Objectives center around preservation and maintenance of desert bighorn sheep and other endemic fauna and flora, with special emphasis on rare and endangered species such as the Sonoran pronghorn. Management activities include routine patrols, surveys, summer water hole counts, bighorn lamb surveys, and water development and maintenance.

Military activities on the Cabeza Prieta National Wildlife Refuge are conducted subject to a Memorandum of Understanding between the Department of the Air Force, Department of the Navy, and the Department of the Interior that became effective on March 24, 1975. Under the terms of the MOU, Air Force and Navy activities on the refuge are confined to air-to-air gunnery, rocketry, and missile practice at altitudes above 5,000 feet mean sea level, and the military services are to avoid all indiscriminate firing. All military aircraft are required to maintain an altitude of at least 1,500 feet above ground level, except along mutually approved low-level corridors. The MOU further requires Fish and Wildlife Service approval prior to the construction of any military roads, structures, or facilities on the Refuge.

The Fish and Wildlife Service benefits from the military presence in several ways. For example, military aircraft are furnished periodically for purposes of game inventories and water hole location and maintenance, as well as patrol efforts. In addition, Air Force and Navy liaison officers mutually coordinate with the refuge manager regarding military and refuge activities. They also are required to meet with the refuge manager annually to plan activities for the next year.

On August 17, 1982, the Luke Air Force Range Natural Resources Management Cooperative Agreement became effective. The parties to this agreement are the Air Force, Navy/Marine Corps, Fish and Wildlife Service, Bureau of Land Management, and the Arizona Game and Fish Department. This multi-agency agreement was entered into for the purpose of protecting, developing and managing the natural resources of wildlife, vegetation, and minerals on the Luke Air Force Range. This agreement does not supercede the MOU, it merely expands the cooperative effort throughout the entire Range and includes all the concerned agencies.

If S. 2659 is enacted, the military departments and the Fish and Wildlife Service will continue to coordinate their activities under the present MOU or an amended version which is acceptable to both agencies. We believe the MOU adequately regulates military activities on the Cabeza Prieta National Wildlife Refuge and thereby protects its wildlife resources.

A mineral report prepared by the Arizona Department of Mineral Resources in support of the Air Force withdrawal application concluded that while there is some potential for mineral development, there is insufficient data relating to the geology, minerals or energy resources of the lands comprising the range. Prospecting and sporadic mining were conducted on the area until 1941 when the first withdrawal of the area occurred.

Since there is very little available information regarding the mineral potential of the land, it is not possible at this time to identify what, if any, effect the proposed use will have on the development of mineral resources. However, in view of the military importance of Luke Air Force Range, we urge that the withdrawal be renewed, subject to the option of Congress to terminate or modify the withdrawal after review of an assessment of the mineral potential of the range. Pursuant to an agreement between the Department of the Interior and the Department of the Air Force, the Department of the Interior will request funds for the proposed assessment and, if funds are obtained, prepare the mineral report and transmit it to Congress prior to the tenth anniversary of the date of enactment of S. 2659.

Decontamination of the range, to the extent it could be opened to public use or mineral exploration, would be difficult to achieve at the present time because of the relatively primitive state of existing technology and the expense of available decontamination methods. Although the contaminated state of the lands may preclude mineral development of the Luke Range in the near future, other factors, such as changes in military weaponry or combat techniques, more sophisticated or cheaper decontamination methods, or the scarcity of minerals which may be present on the range, suggest that a mineral report should be accomplished.

As I said earlier, the bill establishes a procedure regarding the administration of contaminated lands following a decision to terminate the withdrawal. Briefly, the procedure involves the retention by the Air Force of the contaminated lands that cannot be certified as safe, but requires a review of that status every 5 years.

Enactment of S. 2659 will merely authorize the Air Force to continue its use of Luke Air Force Range in the same manner as it has used the major portion of the lands since World War II. Management of the natural resources will continue in the same manner as has been practiced in the past. This means that the primary jurisdiction of the lands in the Cabeza Prieta National Wildlife Refuge, including the protection of its fragile resources, will be in the Fish and Wildlife Service which will manage the lands under the provisions of the 1975 MOU and the National Wildlife Refuge System Administration Act of 1966, except to the extent that other uses are required for purposes of national defense.

Primary jurisdiction of all other lands and resources within the Luke Air Force Range would continue to be with the Bureau of Land Management. Exclusive jurisdiction over the lands for military and national defense purposes would remain with the Air Force. This means that the Air Force alone has control over military operations on the Luke Air Force Range.

We have identified some typographical errors in the bill. We will be pleased to work with the Committee staff to eliminate the discrepancies.

This concludes my statement. I will be happy to respond to any questions on this bill.

Senator WALLOP. Thank you, Mr. Edwards. Mr. Gillett, I will read some questions, which I will ask you to answer for the record and I will submit them to you, just so you know the point of view the committee is interested in satisfying.

That is both S. 2657 and S. 2659 state that the Air Force shall have exclusive jurisdiction for military purposes over management of the public lands involved, including the desert and Cabeza Prieta refuges. I will ask you for your interpretation of that statement.

[The information follows:]

The bills further clarify that the withdrawals, except to the extent rendered necessary by national defends, do not effect the National Wildlife Refuge System Administration Act of 1966, and Executive orders, public land orders, or memoranda of understanding affecting the Desert Nationl Wildlife Range or Cabeza Prieta National Wildlife Refuge. I interpret the statement merely to address priorities among the military agencies that use these FWS lands. These two areas will continue to be managed as in the past and according to the conditions delineated in the respective MOUs as viable units of the National Wildlife Refuge System and will not be subordinated to the military.

Senator WALLOP. The bills also indicate that the administration of the refuges will not be affected except as required by national defense. Do you expect that all refuge management actions will have to receive concurrence from the Air Force and will there be any change in the status quo?

[The information follows:]

I do not anticipate any change from the status quo. All military activities on these National Wildlife Refuge System units are controlled by existing memoranda of understanding between the military and U.S. Fish and Wildlife Service. The MOUs provide mutual benefits and will be continued in their present form or one that is acceptable to all concerned agencies. Management actions do not require concurrence from the military, but proper land management and safety ramifications certainly dictate a need for close coordination.

Senator WALLOP. The third question is how has military use affected the wildlife resources of these areas and do you expect that to change if the legislation is enacted?

[The information follows:]

Military air-to-ground maneuvers occur only at the Desert National Wildlife Range, and are confined to certain areas below 4,000 feet that are not utilized by bighorn sheep.

Air-to-air activities are restricted to 10,000 feet at Desert National Wildlife Range and 5,000 feet at Cabeza Prieta National Wildlife Refuge. Because of these restrictions on military activities, the impacts on the wildlife species that the refuges were established to protect are negligible. We cannot discern any negative effects of military operations in desert bighorn sheep at either area. Because the legislation does not alter the present relationship between the military and the Fish and Wildlife Service, the impacts, or lack thereof, on wildlife will remain the same.

Senator WALLOP. And the fourth question is, S. 2659 withdraws the public lands in question and the Cabeza Prieta National Wildlife Refuge from all public land laws except mineral and geothermal leasing. Does this mean that these activities would be allowed on the refuge under this legislation?

[The information follows:]

Few national wildlife refuges are exempted from mineral leasing laws. The Secretary of the Interior is responsible for the issuance of any permits after a determination of compatibility with the purposes for which the refuge was established is made. Currently, no offers for oil and gas leases covering withdrawn wildlife refuges outside Alaska shall be accepted and no leases covering such lands shall be issued except under the condition of drainage and third party interests. Mineral leasing other than oil and gas is not affected by this decision and the Secretary has the same control as in the past. Consequently, the status quo is maintained at Cabeza Prieta National Wildlife Refuge.

In addition, S. 2659 does not change the status quo regarding geothermal leasing. Under the provisions of 43 CFR Subpart 3201.1-6, geothermal leases are not issued for lands which comprise wildlife refuges or wildlife ranges.

Senator WALLOP. Thank you very much and thank you both. I will move to S. 2660.

STATEMENT OF WILLIAM J. CRONIN, CHIEF, LEGISLATIVE SERVICES OFFICE, DIRECTORATE OF REAL ESTATE, OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY, ON S. 2660

Mr. CRONIN. Mr. Chairman, I am William J. Cronin of the Department of the Army. I request that my statement be entered into the record. I will briefly summarize that statement. I am here to represent the Department of the Army on S. 2660, a bill to withdraw two tracts of land in Alaska, known as the Fort Greely maneuver area and the Fort Greely air drop zone, respectively, containing 623,000 acres for use by the Department of the Army for a period of 25 years.

The Department of the Army supports the bill and recommends enactment.

The Fort Greely maneuver area consists of 572,000 acres used as a testing area for weapons and equipment, and a training area for aerial gunnery, tactical maneuvering and air support. This area has been so used by the Army for 30 years.

The Fort Greely maneuver area is used as a test site for testing weapons and equipment under conditions of extreme cold. During January and February, the area is used by up to 14,000 troops participating in winter war games exercises. The Air Force also uses a portion of this tract for bombing and support activities associated with the Army maneuvers.

The Fort Greely air drop zone, consisting of 51,500 acres located about 105 miles southeast of Fairbanks, is used primarily as a nonfiring maneuver area and includes experimental air drops, airborne training, and the testing of clothing, equipment, and vehicles under extreme weather conditions. The area is good for vehicle testing because of the varying terrain, snow depths, and extreme temperature variations.

I am told, Mr. Chairman, that this area can be among the coldest areas in the State.

This concludes my prepared statement. We have with us today Army representatives from Alaska and we will together be willing to answer any questions.

[The prepared statement of Mr. Cronin follows:]

STATEMENT

BY

WILLIAM J. CRONIN

CHIEF, LEGISLATIVE SERVICES OFFICE

DIRECTORATE OF REAL ESTATE

OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

ON

S. 2660, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE FORT GREELY MANEUVER AREA, IN THE BIG DELTA AREA, ALASKA, AND CERTAIN PUBLIC LANDS WITHIN THE FORT GREELY AIR DROP ZONE, IN THE GRANITE CREEK AREA, ALASKA, FOR USE AS TRAINING AND EQUIPMENT DEVELOPMENT AREAS, AND FOR OTHER PURPOSES."

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

SECOND SESSION, 98TH CONGRESS

AUGUST 8, 1984

Not for publication until released
by the Subcommittee on Public Lands
and Reserved Waters, Committee on
Energy and Natural Resources,
United States Senate.

Good afternoon, Mr. Chairman and members of the Committee. I am William J. Cronin, Chief of the Legislative Services Office, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army. I have been designated to represent the Department of the Army at this hearing on S. 2660, 98th Congress, a bill to withdraw from all forms of appropriation under the public land laws two tracts of land in Alaska, known as the Fort Greely Maneuver Area and the Fort Greely Air Drop Zone, respectively, containing 623,000 acres for use by the Army for a period of 25 years.

The Department of the Army supports the bill and recommends enactment.

The Fort Greely Maneuver Area consists of 572,000 acres used as a testing area for weapons and equipment, and a training area for aerial gunnery, tactical maneuvering and air support. This area has been used as a training and testing area by the Army for 30 years, first under permit from the Department of the Interior, and then in accordance with the Act of September 26, 1961 (Pub. L. No. 87-327, 75 Stat. 687).

The Fort Greely Maneuver Area is used as a test site for testing weapons and equipment under conditions of extreme cold. Weapons tested include mortars, small arms, artillery, air defense missiles and other weapons systems. Tanks and other tracked vehicles are also tested there. During January and February, the area is used by up to 14,000 troops participating in winter war games exercises. The Air Force also uses a portion of this tract for bombing and support activities associated with Army ground force maneuvers.

The Fort Greely Air Drop Zone, consisting of 51,500 acres located about 105 miles southeast of Fairbanks, is used primarily as a nonfiring maneuver area, including experimental air drops, airborne training, and the testing of clothing, equipment and a variety of vehicles under extreme weather conditions. The area is good for vehicle testing because of the varying terrain, snow depths, and extreme temperature variations.

That concludes my prepared statement, Mr. Chairman. I will be happy to answer any questions you might have.

Senator **Wallop**. Just to make an observation, it must be a thrill to get a TDY there.

Mr. Edwards.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2660; ACCOMPANIED BY JIM GILLETT, CHIEF, DIVISION OF REFUGE MANAGEMENT, FISH AND WILDLIFE SERVICE

Mr. **Edwards**. Thank you, Mr. Chairman. I am Frank Edwards, Assistant Director for Land Resources of the Bureau of Land Management, I appreciate appearing before this subcommittee to testify on the Department of the Interior's position on S. 2660. I have a complete statement submitted for the record and will summarize that statement.

Section 1 of S. 2660 would withdraw lands for use by the Department of the Army for the purposes that were previously described by Mr. Cronin in his statement. One further point on that, the lands would be withdrawn from all forms of appropriation under the public land laws, including the mining laws, the Alaska Native Claims Settlement Act, and the Alaska Statehood Act, but not the mineral or geothermal leasing laws.

Section 2(a) provides that the Secretary of the Army shall have exclusive jurisdiction over management of the lands for military purposes and may authorize use of the lands by other military departments and agencies of the Department of Defense.

Section 2(b) requires the Secretary to manage the withdrawn lands and their resources, and provides that the Secretary of the Interior shall be responsible for the issuance of all easements, mineral and geothermal leases, and rights-of-way over the involved lands. All such uses and the issuance of all land-use authorizations are to be secondary to the military use of the lands and would be authorized only with the concurrence of the Secretary of the Army.

Section 3 specifies that all hunting, fishing and trapping on the land shall be conducted in accordance with the fish and game laws of the State of Alaska.

Section 4(a) reserves for future military uses approximately 1,500,000 gallons per day of water located on, under, over or appurtenant to the involved lands. Section 4(b) establishes the means to be used by the Secretary of the Army to acquire additional water.

Section 5 provides that the withdrawal that shall be established by the bill shall terminate 25 years from the effective date of the act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal and a procedure to be used for administering lands that cannot be certified as safe due to their contaminated state.

The Department of the Interior strongly supports enactment of this legislation. That concludes my summary.

[The prepared statement of Mr. Edwards follows:]

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2660, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF ARMY CERTAIN PUBLIC LANDS WITHIN THE FORT GREELY MANEUVER AREA, IN THE BIG DELTA AREA, ALASKA, AND CERTAIN PUBLIC LANDS WITHIN THE FORT GREELY AIR DROP ZONE, IN THE GRANITE CREEK AREA, ALASKA, FOR USE AS TRAINING AND EQUIPMENT DEVELOPMENT AREAS, AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of the Interior's position on S. 2660.

Section 1 of S. 2660 would withdraw for use by the the Department of the Army for military maneuvers, training, equipment development and testing, and other defense uses, approximately 571,995 acres of public lands comprising the Fort Greely maneuver area, in the Big Delta area, Alaska, and approximately 51,590 acres of public lands comprising the Fort Greely Air Drop Zone, in the Granite Creek area, Alaska. The lands would be withdrawn from all forms of appropriation under the public land laws, including the mining laws, the Alaska Native Claims Settlement Act, and the Alaska Statehood Act, but not the mineral or geothermal leasing laws.

Section 2(a) provides that the Secretary of the Army shall have exclusive jurisdiction over management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense.

Section 2 (b) requires the Secretary of the Interior to manage the withdrawn lands and their resources, and provides that the Secretary of the Interior shall also be responsible for the issuance of all easements, mineral and geothermal leases, and rights-of-way over the involved lands. All such uses, and the issuance of all land use authorizations, are to be secondary to the military use of the lands and would be authorized only with the concurrence of the Secretary of the Army.

Section 3 specifies that all hunting, fishing, and trapping on the land shall be conducted in accordance with the fish and game laws of the State of Alaska.

Section 4(a) reserves for future military uses approximately 1,500,000 gallons per day of water located on, under, over or appurtenant to the involved lands. Section 4(b) establishes the means to be used by the Secretary of the Army to acquire additional water.

Section 5 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the Act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal, and a procedure to be used for administering lands that cannot be certified as safe due to their contaminated state. In addition, the section also provides that if the Army has a continuing need for any or all of lands after the expiration date, and files an application for renewal of the withdrawal, the withdrawal will continue pending processing of the application and a decision on the proposed withdrawal by the Secretary of the Interior, and the Congress, as appropriate.

We strongly support enactment of S. 2660.

The Fort Greely maneuver area has been used by the Department of the Army since the early 1950's for training and testing purposes. The land was withdrawn by the Act of September 26, 1961 for a 10-year period with an option to renew the withdrawal for an additional 5 years. The option was exercised and the withdrawal expired on September 25, 1976. On May 14, 1975, the Army filed an application to withdraw again the lands withdrawn under the 1961 Act.

The Fort Greely Air Drop Zone has been used by the Department of the Army since the mid-1950's as an air drop testing site and a training area. The land was withdrawn by the Act of October 3, 1961, for a 10-year period with an option to renew the withdrawal for an additional 5 years. The option was exercised and the withdrawal expired on October 2, 1976. On May 7, 1975, the Department of the Army filed an application to withdraw again approximately 36,900 acres of the lands originally withdrawn under the 1961 Act. The application was later amended to include the remaining portion of the 51,590-acre tract.

The lands affected by S.2660 are located approximately 105 miles southeast of Fairbanks Alaska.

Legislation is required for the proposed withdrawal under the requirement of the Act of February 28, 1958, commonly known as the Engle Act. That Act requires that withdrawals and reservations of more than 5,000 acres of public land for any one project or facility of the Department of Defense be accomplished only by an Act of Congress.

Minerals in the area proposed for withdrawal are sand, gravel, gold, molybdenum, and coal. The coal resources of the area are estimated at 75 million tons, but are largely undeveloped. The area is considered to have a low potential for oil and gas development.

Many of the weapons used at the proposed withdrawal area have failed to detonate, significant portions of the lands proposed for withdrawal are heavily contaminated. Decontamination of the lands, to the extent that public use or mineral exploration could be certified as safe, would be difficult to achieve at the present time because of the relatively primitive state of existing technology and the expense of available decontamination methods. However, the bill establishes a procedure regarding the administration of contaminated lands following the intention to terminate the withdrawal. That procedure involves the retention, by the Army, of the contaminated lands but requires a review of that status every 5 years.

Some portions of the area proposed for withdrawal are well forested, while other areas are comprised of shrub wetlands, alpine tundra, and scattered moist tundra.

The lands proposed for withdrawal at Fort Greely support a large and varied wildlife population. The most common species is the moose. Another important big game species is the Delta bison herd, which was introduced in the area in 1928. The State of Alaska identified the Big Delta portion of the proposed withdrawal as being used by two thirds of the North American Continent's population of Sandhill Cranes during spring and fall migrations. Other species present on the area include caribou, Dall sheep, grizzly and black bears, wolves, foxes, coyote, mink, muskrat, and beaver. Several rivers and lakes are located in the proposed withdrawal area. Fish species common to the area include the humpback white fish, mountain pike, salmon, and rainbow trout.

The wildlife resources of the Fort Greely reservation are managed in accordance with a March 1979 Cooperative Agreement among the Army, the Fish and Wildlife Service, and the Alaska Department of Fish and Game. The agreement requires joint inventory of fish and wildlife resources, the development of conservation and management programs, and hunting, fishing and trapping by both military personnel and civilians. It is anticipated that management of the natural resources will continue in the same manner as it has been practiced in the past.

We have identified some typographical errors in the bill. We would be happy to work with the committee staff to correct the errors.

This concludes my statement. I would be happy to respond to any questions on this bill.

Senator WALLOP. Thank you. I will ask you each to return to S. 2661 and then we will have the two Nevada witnesses.

STATEMENT OF WILLIAM J. CRONIN, CHIEF, LEGISLATIVE SERVICES OFFICE, DIRECTORATE OF REAL ESTATE, OFFICE CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY, ON S. 2661

Mr. CRONIN. Mr. Chairman, I am William J. Cronin of the Department of the Army. I represent the Department for the purposes of testifying on S. 2661, a bill to withdraw 250,000 acres of land in Alaska, known as the Fort Wainwright maneuver area, for use by the Department of the Army as a maneuver and training area, and for other defense related uses for a period of 25 years.

The Army supports the bill and recommends its enactment.

The area proposed for withdrawal, formerly known as the Yukon Command training site, is located 16 miles east-southeast of Fairbanks. The lands have been used by the Army continuously since 1957. The Army has a continuing requirement to use these lands. The diverse terrain and large maneuver areas provide a realistic training environment for battalion and larger size exercises, particularly winter exercises, for active Army, National Guard and Reserve units, and the Air Force. The tract is used approximately 200 days per year by 4,000 to 5,000 troops. The reserved airspace over the withdrawal area is used for helicopter flight training and troop transport.

Portions of the withdrawal area are also used by the Air Force for cold weather survival training, a small arms range and an Air Force technical application center site.

This concludes my prepared statement, Mr. Chairman. We will be happy to respond to your questions.

[The prepared statement of Mr. Cronin follows:]

STATEMENT

BY

WILLIAM J. CRONIN

CHIEF, LEGISLATIVE SERVICES OFFICE

DIRECTORATE OF REAL ESTATE

OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

ON

S. 2661, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE ARMY CERTAIN PUBLIC LANDS WITHIN THE FORT WAINWRIGHT MANEUVER AREA, FOURTH JUDICIAL DISTRICT, ALASKA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA, AND FOR OTHER PURPOSES."

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
SECOND SESSION, 98TH CONGRESS

AUGUST 8, 1984

Not for publication until released
by the Subcommittee on Public Lands
and Reserved Waters, Committee on
Energy and Natural Resources,
United States Senate.

Good afternoon, Mr. Chairman and members of the Committee. I am William J. Cronin, Chief of the Legislative Services Office, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army. I have been designated to represent the Department of the Army at this hearing on S. 2661, 98th Congress, a bill to withdraw from all forms of appropriation under the public land laws 250,000 acres of land in Alaska, known as the Fort Wainwright Maneuver Area, for use by the Department of the Army as a maneuver area, a training area for artillery firing, aerial gunnery, infantry tactics, and other defense related uses for a period of 25 years.

The Department of the Army supports the bill and recommends enactment.

The area proposed for withdrawal, formerly known as the Yukon Command Training Site, is located 16 miles east-southeast of Fairbanks, Alaska. The lands have been used by the Army continuously since 1957, first under permit from the Bureau of Land Management, and then pursuant to statutory authorization. The Army has a continuing requirement to use the lands. There is a statutory requirement that withdrawals of more than 5,000 acres of public land for use by the Department of Defense for defense purposes be accomplished by legislation (Act of February 28, 1958, Pub. L. No. 85-337, 72 Stat. 27). This bill is designed to meet that requirement.

The Fort Wainwright Maneuver Area is used primarily as a maneuver and training area. The diverse terrain and large maneuver areas provide a realistic training environment for battalion and larger size exercises, particularly winter exercises, for active Army, National Guard and Reserve units, and the Air Force. The tract is used approximately 200 days per year by 4,000 to 5,000 troops. The reserved airspace over the withdrawal area is used for helicopter flight training and troop transport.

Portions of the withdrawal area are also used by the Air Force for cold weather survival training, a small arms range and an Air Force Technical Application Center (AFTAC) site.

That concludes my prepared statement, Mr. Chairman. If you have any questions, I will be happy to answer them.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2661; ACCOMPANIED BY JIM GILLETT, CHIEF, DIVISION OF REFUGE MANAGEMENT, FISH AND WILDLIFE SERVICE

Mr. EDWARDS. Thank you, Mr. Chairman. I am Frank Edwards, Assistant Director for Land Resources, Bureau of Land Management. I am pleased to appear before this subcommittee and testify on the Department of the Interior's position on S. 2661. I have submitted a written statement for the record and will summarize that statement.

Section 1 of the bill would withdraw for 25 years approximately 250,000 acres from all forms of appropriation under the public land laws, including the mining laws, the Alaska Native Claims Settlement Act, and the Alaska Statehood Act, but not the mineral or geothermal leasing laws, for use by the Department of the Army for those purposes as described by Mr. Cronin.

Section 2(a) provides that the Secretary of the Army shall have exclusive jurisdiction over management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense.

Section 2(b) requires the Secretary of the Interior to manage the withdrawn lands and their resources, and provides that the Secretary of the Interior shall also be responsible for issuance of all easements, mineral and geothermal leases, and rights-of-way over the involved lands.

All such uses and the issuance of all land use authorizations are to be secondary to the military use of the lands and would be authorized only with the concurrence of the Secretary of the Army.

Section 3 specifies that all hunting, fishing and trapping on the land shall be conducted in accordance with the fish and game laws of the State of Alaska.

Section 4(a) reserves for future military uses approximately 2,400,000 gallons per day of water located on, under, over or appurtenant to the involved lands. Section 4(b) establishes the means to be used by the Secretary of the Army to acquire additional water.

Senator WALLOP. Frank, I am going to ask your understanding if you could complete that at a subsequent time. We have a rollcall and I have promised the two Nevada witnesses that I would try to get them on so that they can catch their airplane. So I would ask you and Mr. Rittenhouse if you could just sit back for 1 minute and I will call Mr. Robbins and Dr. Bargen.

The prepared statement of Mr. Edwards follows:]

AUG 8 1984

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2661, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF ARMY CERTAIN PUBLIC LANDS WITHIN THE FORT WAINWRIGHT MANEUVER AREA, FOURTH JUDICIAL DISTRICT, ALASKA, FOR USE AS A MANEUVER AND TRAINING AREA, AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of the Interior's position on S. 2661.

Section 1 of the bill would withdraw, for 25 years, approximately 249,551.67 acres in the Fourth Judicial District of Alaska, from all forms of appropriation under the public land laws, including the mining laws, the Alaska Native Claims Settlement Act, and the Alaska Statehood Act, but not the mineral or geothermal leasing laws, for use of the Department of the Army as a military maneuver area, a training area for artillery firing, aerial gunnery, infantry tactics, and other defense related uses.

Section 2(a) provides that the Secretary of the Army shall have exclusive jurisdiction over management of the lands for military purposes and may authorize use of the lands by the other military departments and agencies of the Department of Defense.

Section 2 (b) requires the Secretary of the Interior to manage the withdrawn lands and their resources, and provides that the Secretary of the Interior shall also be responsible for the issuance of all easements, mineral and geothermal leases, and rights-of-way over the involved lands. All such uses, and the issuance of all land use authorizations, are to be secondary to the military use of the lands and would be authorized only with the concurrence of the Secretary of the Army.

Section 3 specifies that all hunting, fishing, and trapping on the land shall be conducted in accordance with the fish and game laws of the State of Alaska.

Section 4(a) reserves for future military uses approximately 2,400,000 gallons per day of water located on, under, over or appurtenant to the involved lands. Section 4(b) establishes the means to be used by the Secretary of the Army to acquire additional water.

Section 5 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the Act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal, and a procedure to be used for administering lands that cannot be certified as safe due to their contaminated state. In addition, the section also provides that if the Army has a continuing need for any or all of the lands after the expiration date, and files an application for renewal of the withdrawal, the withdrawal will continue pending processing of the application and a decision on the proposed withdrawal by the Secretary of the Interior, and the Congress, as appropriate.

We strongly recommend enactment of S. 2661.

The lands proposed for withdrawal were first used by the Department of the Army in 1957 under a permit issued by the Bureau of Land Management. The Act of September 26, 1961, withdrew the property for a 10 year period with an option to renew the withdrawal for an additional 5 years. The option was exercised and the withdrawal expired on September 25, 1976. On May 11, 1975, the Department of the Army filed an application to again withdraw the land covered by the 1961 Act.

Legislation is required for the proposed withdrawal under the requirement of the Act of February 28, 1958; commonly known as the Engle Act. That Act requires that withdrawals of more than 5,000 acres of public land for any one project or facility of the Department of Defense be accomplished only by an Act of Congress.

The Fort Wainwright Maneuver Area is located approximately sixteen miles east-southeast of Fairbanks and immediately east of Eielson Air Force Base. It is used primarily by elements of the U.S. Army's 172nd Infantry Brigade (Alaska) as a maneuver and training area. The Air Force operates a communications station and a winter survival school within the Maneuver Area.

Because many of the weapons used at the Fort Wainwright Manouver Area have failed to detonate, significant portions of the lands proposed for withdrawal are heavily contaminated. Decontamination of the lands, to the extent that public use or mineral exploration could be certified as safe, would be difficult to achieve at the present time because of the relatively primitive state of existing technology and the expense of available decontamination methods.

No major deposits of minerals have been identified in the withdrawal area. Two placer deposit areas for gold, tin and tungsten are located in the northeastern portion of the site. However, mining activity in the area has been confined primarily to sand and gravel extraction operations. The area is outside of the Middle Tanana basin oil and gas province which has only a low potential for oil and gas development.

The lands proposed for withdrawal at Fort Wainwright are heavily forested, with black spruce and hardwoods being predominant. There are also small patches of brush thickets and shrub wetlands in the withdrawal area.

Most of the wildlife of Fort Wainwright are forest species because of the predominance of spruce and hardwood habitats. The withdrawal area contains a critical winter range for moose, and is located within State Game Unit 20B, which has the largest State harvest of moose. Wolf, wolverine and black bears range over the entire withdrawal area, while grizzly bears are found in the far eastern portions of the area. Trappers mostly take marten, fox, red squirrels, and lynx.

The rivers and lakes of the withdrawal area support populations of humpback white fish, arctic grayling, northern pike and burbot.

The State of Alaska has requested that the Army manage certain lands near the Chena River Recreation Area for public recreational use. Public concern also was expressed regarding the avilability of the lands for recreational use. The Army has agreed to allow public recreational use of certain portions of the areas proposed for withdrawal when such use does not interfere with the military need for the land.

We have identified some typographical errors in the bill. We would be happy to work with the committee staff to correct the errors.

This concludes my statement. I would be happy to respond to any questions on this bill.

Senator HECHT. Mr. Chairman, I appreciate very much your allowing our two witnesses from Nevada, who have a car waiting for them, to testify.

Senator WALLOP. Whoever sits down first may identify himself and start.

STATEMENT OF E.H. ROBBINS, VICE CHAIRMAN, DIXIE VALLEY SOIL CONSERVATION, DIXIE VALLEY, NV

Mr. ROBBINS. Thank you, Mr. Chairman. My name is E.H. Robbins and I do not have any title. I am impressed with all of the titles around here. Dr. Bargen is holding up a map of, it is a section of the map of the State of Nevada. What we are here to discuss, basically I am, is Senate bill 2662, the withdrawal of 21,000 acres of public domain land in Churchill County, associated with the expansion of the air warfare training complex at Fallon as it pertains to the overall withdrawal of 181,000 acres of public domain land in Churchill County.

The reason I am interested in that is not because of that little piece of mudflat out there, which is now under water and they can't find it anyway, it has to do with the expansion as it pertains to the people in Dixie Valley. As we have found out recently, when the Navy designates a large ordinance in the Lone Rock area, there are some geophysical aspects of the Still Water Mountains that allow the shock waves to come clear over into Dixie Valley where approximately 40 residents reside.

We are kind of wondering if these impacts continue that our wells will begin to close in and collapse on us and we will not have any irrigation whatsoever. We are kind of interested in the expansion as NAS Fallon owns now approximately 186 square miles of land at the station and surrounding ranges. They have doubled their airspace since 1980.

We have tried at this point to contact the Navy in regard to their expansion for the reason that with these areas that are expanding on the surface, they wish to give the residents of this area, mainly Dixie Valley, a supersonic operations area and 5,700 square miles of central Nevada will give us 20 to 100 sonic booms per day of different degrees and intensity of over-pressure, 5 days a week, which translates into 5,200 to 26,000 sonic booms per year.

I do not know how you feel about it, but after a test on March 2, 1983 in which an F-14 at just under 6,000 feet at a mock speed of 1.5, two passes, put a little over $900 worth of damage in the brand new sheetrock of our house. I doubt that my house would stand up under 26,000 sonic booms per year. We have tried to contact the Navy on this since August 11, 1982, asking them that if they indeed needed this for national defense that we are not anti-America, we are not anti-Navy. Most of the men in the valley were in World War II, either in the Air Force or the Navy or we were in the Korean war. I was in the 82d Airborne, so I am not anti-America.

I have worked on jet aircraft for 11 years for the Air Force. I have worked on the F105, the 100s, the F111s. I armed and disarmed the aircraft and I worked on the electronics. I know that at some point in time an accident is going to happen. We have had as many as 21 aircraft below tree-top level fly over our valley at one time. At some point in time, there is going to be an accident.

Senator HECHT. Excuse me. Doctor, do you want to come up and sit up here too?

Mr. ROBBINS. If the Congress can help us resolve this problem, if the Navy needs this land and has to have it for national defense, then we say if you want to fly it, buy it, and it will not cost that much compared to the lives that are involved. We think that economic considerations should be put second compared to constitutional law and the lives of people.

Senator HECHT. Mr. Robbins, 1 moment. Mr. Roth, can you respond about the lack of cooperation and can you give some statement about cooperation in the future with our people?

Senator WALLOP. Chic, if you will, I understand what you are trying to do here, but if Dr. Bargen wants to say anything——

Senator HECHT. Did you have something to say, doctor? OK, I am sorry.

Senator WALLOP. We can get the response, but we are going to have to go and vote.

Senator HECHT. Your 5 minutes are up, Mr. Robbins.

Dr. Bargen.

[Subsequent to the hearing Mr. Robbins submitted the following:]

AUGUST 19, 1984.

Senator WALLOP,
Dirksen Senate Building,
Washington, DC

(Attention of Tony Bevinetto).

Thank you for taking time out of your busy schedule to help two true Nevada hay seeds, that were lost when we got off the plane, let alone finding their way around the big city. With all the bells going off and people running in and out, it was really something to see.

Since my time was so short and there were more points to bring up, I thought, I would send you information as to our plight. Though Dixie Valley is very small in the scope of human events, we still are Americans and seeking equal justice under the law. We the people of Dixie Valley would appreciate all that you could do for us.

If I ever get back to Washington, D.C. again, I will try to brush all the hay and manure off my boots before I get to town. Thanking you again.

I remain respectfully,

E.H. Robbins.

STATEMENT OF DR. RICHARD BARGEN, FALLON, NV

Dr. BARGEN. Mr. Chairman, Senator Hecht, and fellow speakers, who are letting us move in ahead here, we thank you very much. The BRAVO–20 land withdrawal has to be put in the perspective of the integrated air warfare training complex that the U.S. Navy is trying to set up at Fallon. By itself, it is just a mudflat with 21,000 acres that nobody really gives a hoot about, currently under water and it is kind of drying up right now.

However, it is part of a major expansion at the naval air warfare training center that is really not being addressed in a proper environmental fashion. In the near future, you will be hearing about land withdrawals totaling perhaps 200,000 acres. These land withdrawals are part of this same complex and will be used in the same fashion.

To summarize, I think the primary things here are that the expansion at the naval air station, although I think the Navy may deny it, is part of the Continental Operations Ranch Proposal of 1974, which went to a draft environmental impact statement and then was stopped perhaps because of lack of appropriations, but this would tie in Nellis, Hill Air Force Base, and Fallon Naval Air Station and our large continental operations, air warfare training complex and everything that has been done has all of the schedule in the 1974 document.

National security is not an issue here. The captain of the Navy base has stated that if we oppose his efforts, they will move the naval base to El Central and conduct the same training there.

I think, to summarize, my major concerns are that this is part of a project that is a major health problem for people. It is a small part of a larger project that is going to cause major health problems. It is part of something that involves other States and is a much larger project than will be presented to you and than we will be able to present in detail to you in this short time.

The military in Nevada behaves as a fourth branch of government and if we want to—essentially the Engle Act, at times perhaps Neville Chamberlain would understand some of the things that happen in Nevada better than we do. We feel that hearings in Nevada and proper notifications should be done—perhaps investigation by the Congressional Research Office or General Accounting Office would be appropriate prior to allowing these things to go on and finally the BRAVO-20 withdrawal, S. 2662, is not the Engle Act of 1958. It is not applicable to it by reason of section 1, part 4 or part 1, section 4—I am not sure which it is. It just does not apply. It is one of the few areas in the United States that is still exempt from the Engle Act. I am not a lawyer, but I presume that you can't pass an act on something that does not apply.

Senator WALLOP. Let me suggest to you both that your entire statements will be in the record. If you wish to expand them, then we will receive them, as I said, until August 31. I appreciate your coming here. I appreciate your understanding of what happened with the vote and other things. We did try to get you on and I am sorry that the time was so short. But I do assure you that your entire statements will be in the record and any expansion you wish to make on them.

Mr. ROBBINS. Thank you very much.

[The prepared statement of Dr. Bargen follows:]

COMMITTEE ON ENERGY AND NATURAL RESOURCES

COMMENTS ON S.2662

(Hearing August 8)

submitted by

Richard Bargen,
Box 1445,
Fallon, Nevada,
89406.

August 17, 1984.

Mr. Chairman and Committee Members;

These comments are submitted as a supplement to the brief oral presentation made before your Committee on August 8, 1984, regarding the public land withdrawal in Churchill County, Nevada (considered under Bill S.2662).

First, I'd like to thank the Chairman and other speakers for their consideration regarding scheduling, in allowing the oral presentations from the Nevada residents. I'd particularly like to thank Senator Hecht and his staff for the courteous consideration received during my visit to Washington.

Senate consideration of S.2662 must be undertaken with a full knowledge of the implications of this Bill, none of which are apparent upon its reading. Without knowledge of historical government agency action in Central Nevada, along with actions that are presently underway (or proposed), S.2662 may on its face appear to be "just another" land withdrawal of no particular consequence. Hopefully, the outline that follows will provide a factual guideline for a proper inquiry into the major ramifications of this Bill.

The outline presented below, particularly the historical comments dealing with the Engle Act, are presented to provide perspective for persons who are not familiar with these facts. The members of this Committee, who are conversant with the Act due to their daily work, could certainly omit reviewing this portion of the comments.

1. BRAVO-20

The approximately 21,000 acres of public land that are subject to transfer from the Department of Interior to the Department of Navy and DOD under S.2662, are part of a checkerboard system of land established when the railroads first traversed this territory.

Situated on a large playa, presently under water and forming the largest lake in the State of Nevada, Bravo 20 is located in Restricted Area 4802 which is integrated with Restricted Area 4813.

This location, approximately 10 nautical miles southeast of Lovelock's famous alfalfa fields, has been used for gunnery and bombing training, by various military services, dating back decades and stemming from the declared emergency of May of 1941.

R4813 is bounded on the southwest and southeast by two wildlife refuges, on the south by the irrigated farmlands of the Newlands Project and directly north lie the checkered farmlands adjacent to the Pershing County seat, the town of Lovelock. Approximately five nautical miles east of 4813, a major geothermal region is being developed.

A major VFR and IFR airway, the main East-West commercial airway in Nevada, lies immediately north of 4813 and loops over this restricted area as it passes between Elko and Reno.

A small rocky prominence called Lone Rock, breaks the great expanse of the Carson Sink, and is the main bombing target at present. While Lone Rock, the remnant of a volcano, is supposedly sacred to the local Indians, there is no question that today, any prolonged onsite meditation at Lone Rock would provide a guaranteed translation into the higher realms, courtesy of ordinance delivered by the U.S. Navy.

The public land withdrawal in and around Bravo 20 has been formally proposed (and apparently not completed due to changing plans by the DOD) since at least the time of the Engle Act of 1958. Some land acquisition in adjacent checkerboard lands of the Carson Sink has been accomplished by the power of condemnation in 1982 (United States of America v Southern Pacific Land Company, CV-R-82-328-ECR). Whether money has changed hands or whether "maneuvering" is still underway (i.e. land exchanges), is not known.

Still focusing on the very local region of R4813, the geological records show that the area is rated 4 (on a scale of 1 to 4). This area is thus considered as the highest risk for earthquakes.

The geological structure of the region, including numerous fault lines underlying this portion of Nevada (which presumably result in the large earthquake hazard and are presumably related to the great geothermal potential), result in the transmission of shock waves from explosions of large bombs at Bravo 20. Many miles to the east, in the settled areas of Dixie Valley, residents state that they are able to differentiate the types of ordinance being dropped across the mountains on the basis of the intensity of the shocks received in their valley.

Reported fluctuations and brief stoppages of water supplies in areas south of R4813, consequent to the use of heavy ordinance at Bravo 20, constitutes another, of many varied concerns expressed about the present usage of the range. Private and commercial aviation has significant concerns about the region and the restricted area, concerns that range from simple economic considerations, to those of safety.

None-the-less, the ostensible purpose of S.2662, to enable land withdrawals which will enhance the manageability and safety of the Bravo 20 range, is not forcefully impacted by the concerns expressed above. In that case, why did a couple of hayseeds from Nevada, voyage to Washington, endure $97 per night lodgings, to testify for a few minutes about an apparently insignificant land withdrawal?

As stated earlier, crucial to understanding the reasons for opposition to the withdrawal proposed by this Bill, are government actions which are intimately related to S.2662, actions which have and will continue to have major impacts, both on individual citizens and upon the entire State. The Bill must be seen for what it truly is; a small segment of a major program which is being implemented in a piecemeal fashion, segmented in order to avoid having to deal with the environmental consequences of a major federal governmental project. This concern, addressed later, prompted my oral testimony, and as noted below, is related to the reason that the Engle Act was passed in 1958.

One's historical perspective of the present events related to the Engle Act, are facilitated by a review of the records of the day. Below are several quotations, often at length, that are pertinent.

The Congressional Record--House, 1957, 5512...

Congressman Engle: "...The background of this legislation is that in 1937 the military agencies of the United States controlled approximately 3 million acres of land. At the present time the Department of Defense controls over 30 million acres of land in the continental United States and Alaska...In order to illustrate to you what the situation is, I want to take a moment to give you the legal background. The public lands of the United States amount to some 450 million acres. Those public lands are, under the Constitution of the United States, article IV, section 3, clause 2, made the particular responsibility of Congress. That section of the Constitution states that:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States.

...But over the years Congress has not exercised that power, and there grew up in the executive branch of the Government the practice of setting aside portions of the public lands of the United States for particular public uses...As I say, the practice grew up, and as it grew up these various defense agencies, the Army, the Navy, and the Air Force, would simply make out a slip of paper in the nature of an application to the Interior Department asking for an area perhaps 100 miles long and 50 miles wide in the State of Nevada, and send it over to the Secretary of the Interior saying it was absolutely necessary to their operations, and that area was set aside for those military operations and put into what could be regarded as a legal icebox...It was our concern over that problem that brought on this legislation...We have undertaken in this legislation to revoke the implied delegation of power to the Executive branch whenever any of its departments try to take over 5000 acres of (sic) more."

"...What this bill does, in effect, is to repeal the implied grant of power under which the Department of Defense for a great many years has undertaken to slice out without any restraint or restriction whatever---and really on their own say-so because nobody in these other agencies ever argues or disputes a matter of military necessity--- and restore that power to the Congress where it belongs and where it is vested by the Constitution of the United States."

The Engle Act was designed to remedy several areas of concern, as noted above by Mr. Engle and as described by other elected representatives. During the debates on the proposed Act, comments were made that are very meaningful today and that in retrospect appear prophetic.

Mr.Engle: "....It is clear to this committee, then, that military use requirements today must be thought of in terms of both horizontal and vertical needs. While the concern and jurisdiction of this committee is limited to the former, and then only where public lands are involved, the committee believes that it is absolutely vital that continuing reevaluations be made of Federal legislation and administrative controls governing the assignment and use of airspace, which does involve the latter...where we spoke of "military acres" pre-World War II, and "military square miles" by 1945, today those requirements can only be adequately described in terms of "cubic miles."..."

When S.2662 is viewed in the context of the establishment of the Integrated Air Warfare Training Complex (IAWTC) in Central Nevada, located at Fallon, the applicability of the comments of several decades ago, assume a renewed and prophetic aura. Land and air are in this context, inseparable.

The Navy and the Air Force, since the 1950's, in their struggle for possession of the "wasteland" that constitutes the State of Nevada, were major forces in ensuring the passage of the Engle Act. From 1956 through 1958, at least 12 bills were introduced, variations of the bill that was finally passed as the Engle Act. In a report that accompanied H.R. 12185 and was passed by the House and formed the basis for the Engle Act (H.R. 5538), the following comments were made by the Committee on Interior and Insular Affairs.

84th Congress, House of Representatives, Report #2856, p.17:

"On January 6, 1956, Air Force witnesses testified that not only were existing holdings not surplus in any of these States, but that their studies indicated they would need to acquire additional acreages. On the same date, Defense concurred in this position. With specific respect to the degree of utilization of the Nellis-Tonapah range, an Air Force witness declared:

> So this area is, I would not say saturated, but it is congested to such an extent that any additional load would endanger the safety of the range operation.

On January 27-28, 1956, Navy witnesses advised the committee that in 1953, and again in 1955, the Navy had sought---without success--- to effect joint utilization with the Air Force of the Nellis-Tonapah range. In each instance, the Defense Department had concurred in the Air Force turndown of the Navy request.

On February 1, 1956, Air Force and Defense were requested to supply any letters, directives, studies, or written conclusions in existence as of the 1953 and 1955 denials of the Navy's joint-use request, which materials or matters formed the basis for the Air Force denial, the Defense concurrence therein. On February 29, 1956, the "records" requested were transmitted, consisting of 6 sheets of paper comprised—between endorsements—of 2 Navy requests, 2 Air Force negatives of the requests, and 2 Defense concurrences in the latter.

On March 1, 1956 (with further clarification on March 14), the Air Force advised the committee that more than 2 million acres within the exterior boundaries of Nellis-Tonapah were being declared surplus to Air Force needs.

On January 27-28, 1956, in justification of its 1955 request for the 2.8 million acre withdrawal in northern Nevada for gunnery range purposes in connection with the Fallon Naval Auxiliary Air Station, the Navy pointed to the 1953 and 1955 Air Force turndowns at Nellis-Tonapah.

On March 23, after the Air Force had announced its decision to declare 2 million acres surplus at Nellis-Tonapah, the Navy argued vigorously that it was too late, that Fallon NAAS would have to be closed down because of its distance from Nellis-Tonapah, that the Federal investment in Fallon NAAS approximated $16 million, that this $16 million "would go down the drain" if the Navy could not proceed with its 2.8 million-acre withdrawal in northwest Nevada.

The plain facts are that there was an approximate Federal investment at Fallon NAAS of $10 million in 1953, when the original Navy request for a joint use at Nellis-Tonapah was made; that had the

Air Force agreed in 1953---pursuing Navy logic---that $10 million would have been lost; that in the same year the Navy made its request for land use at Nellis-Tonapah, 1953, it also justified appropriation of an additional $5.5 million which, as "in place" funds for Fallon NAAS in 1955 brought the Federal investment there to the $16 million mark; that when the Navy in 1955 renewed its request for joint use at Nellis-Tonapah, had the Air Force immediately agreed to joint use by the Navy, then again---pursuing Navy arguments and Navy logic---the Fallon NAAS "would close down," the Navy training program "would be set back to 3 years," it would take "at least $10 million in additional construction funds to make the transfer to bases near the Nellis-Tonapah range," and the $16 million investment at Fallon NAAS "would be shot."

If the Navy's assertions and figures are correct as to the results which would be achieved by Navy being required to use Nellis-Tonapah, then responsibility for the resultant superwaste of taxpayers' and casual treatment by the Navy of valuable public resources can only be laid at the door of those in the Navy responsible for long-range planning---all with perfect cooperation from the Air Force and the Department of Defense.

Several observations appear in order.

For the Air Force to testify as it did on January 6, 1956, as to "saturation use of all of its lands"---only to declare surplus to their needs, less than 8 weeks later, an area of public land equivalent to a strip of land 1 mile wide from New York to Los Angeles and then when pressed by the committee to present justification for retention of the very land in question---is inexplicable.

For the Navy to assert "too late" on March 1, 1956, on an offer of land at Nellis-Tonapah because acceptance would "assure a waste of $16 million at Fallon NAAS" after the Navy had in 1955 renewed its request for the land offered---when at the time it made its 1955 request the Navy also had a $16 million investment at Fallon NAAS---is incomprehensible.

Finally, for the Defense Department to concurr in the activities and conclusions of the Air Force in 1953, 1955, and 1956---and in the activities and conclusions of the Navy in 1953, 1955 and 1956---reflects what can only be labelled an inexcusable deficiency in the control procedures established by Defense to assure conformity with its directives relating to public land acquisition and utilization."

(end of quote)

The problem noted above continues today. Fallon residents are told that the proposed "major expansion of airwarfare training activity" at Fallon NAS, cannot be done elsewhere because:

a. The Air Force won't allow us to use Nellis.

b. The real people who live elsewhere would complain.

c. We have a major investment at Fallon NAS and can't waste the taxpayers' money by moving.

When it became apparent that local and State opposition to the uncontrolled activities of the Navy might be having some success in alerting citizens to a violation of the laws of the Land, the Navy stressed the amount of money that Fallon received as a result of having a Naval Air Station as its economic base and warned that this base would go elsewhere if inhibited. Captain Austin stated that their equipment was on wheels and could be hauled away virtually overnight. Other physical facilities could be unbolted with a "half-inch wrench" and would also sail away swiftly into the night, leaving Fallon bereft of the largesse residents had grown accustomed to.(Perhaps the Navy should first price a half-inch wrench. Judging by recent news reports on the costs of military hardware, the half-inch wrench's cost may be prohibitive to the proposed rapid deployment scenario.)

Also continued, is the problem of citizens and even other government agencies obtaining proper, non-contradictory information about military agency plans having a major impact upon large portions of the State and population.

Whether it is the statement that the Continental Operations Range is no longer a viable option, or that the major construction along with hanger construction, TACTS construction, the establishment of a Strike University at Fallon and land withdrawals at Fallon are all unrelated projects, citizens, by whatever means, are being deprived of their lawful rights. It is only by exercising their lawgiven responsibilities that citizens are able to work to prevent the military agencies from becoming the fourth branch of government.

S.2662 is a view of the nose of a camel poking under the tent. In the near future, nearly 200,000 more acres of public land will be proposed for withdrawal by the Navy near Fallon. This committee should not approve S.2662 without first checking out the rest of the camel.

Another concern relating to this committee, and evolving from the Engle Act, is the need for local hearings, enabling citizens to comment upon proposed land withdrawals. This was the intent of the Engle Act.

> "One of the biggest complaints that appeared in the testimony before our committee was that when the military moved into an area and took large sections of the public domain they would do it without seeking any advice, assistance, or consultation with the local people."
>
> (Mr.Saylor, Cong.Rec. 1957, 5521)

The time and expense of hearings in the areas affected are part of the cost of maintaining the rights of citizens to help determine the direction of their region, State and Country. Neither written submissions nor arduous voyages to the Nation's Capitol can substitute for the benefits gained by holding hearings near the regions affected.

Many persons were concerned about the Groom Mountain takeover. While no one doubts the necessity for the land access to be restricted, the illegalities involved in what the Air Force calls a "minor boundary adjustment" strike at the very heart of our system of government. Despite the amiable resolution of this problem with the local participants, it would behoove citizens to press for a legal resolution. Give the land back, totally and completely, if even for 5 minutes, make a proper application and then take possession as provided for by the laws of the land.

This is not a new problem. Senator Bible, addressing another problem three decades ago, commented in the Congressional Record:

Page 13.

> "...Unbelievable as it appears, we have here an example of a military agency asserting exclusive jurisdiction over an area of federally owned property to which it hasn't the slightest semblance of legal title. H.R. 5538 will put an end to such situations..."

The first time it may be unbelievable, but thereafter it is SOP. The last major concern that this committee is able to address, if not solve, is the National Security pleadings put forward by the agencies for nearly all major projects. Questioners are usually labelled "unpatriotic", or worse. However, accountability of government agencies to the elected representatives such as form this committee, must be guaranteed and concommitantly, committee members must ask searching questions of need. In addition, committee members would hopefully investigate the matters brought before them by ordinary persons who may not be able to obtain unbiased information pertinent to government projects and land withdrawals.

Concurring with quotes mentioned earlier in this paper, in 1957, Senator Bible, commenting in debate on an Engle Act, prototype, stated:

"...It is the judgment of the Committee on Interior and Insular Affairs that the military use of public lands has been flagrantly abused and the measure now before us provides a means of assuring that, in the future, a clear showing of actual need must be made to the Congress before public lands in excess of 5,000 acres will be set aside for use by the Army, the Navy, or the Air Force.

As the administrative custodian of public domain lands, the

Secretary of the Interior must, at the present time, determine whether or not portions of the public domain should be set aside primarily for military purposes when the military agencies express a need therefor. All too often, unfortunately, the Secretary has been compelled to approve routinely the requests for additional land submitted to him by the military because of his Department's inability to assess comparatively the military need as against continued public uses of the public land in question. As a consequence, agencies of the Defense Department have acquired millions of acres of public land simply by alleging the land is needed for national defense purposes. Not having detailed information with respect to Defense Department preparations for the national defense, the Interior Department has had to "rubber stamp" these military land requests."

Mr.Engle, 1957, Congressional Record:

"...One observation needs to be made: the record made by the committee suggests that applicant defense agencies have tended to turn to the clause "if the purpose or purposes are classified for national security reasons" as a device to relieve them of the burden of making known the general purpose for which such areas are to be withdrawn."

While the Engle Act theoretically solves Senator Bible's concern, if this committee does not delve into these matters with customary diligence, then it becomes a surrogate DOI and the passage of the Engle Act is rendered meaningless.

We are aware, and it is stated in the Navy's Master Plan, that this area in R4813 will be fenced, that large ordinance up to 2000 pounds will be dropped here and that lasers will be utilized. On this basis one would say that the Navy has revealed its purposes and would assume that the statements quoted above, by Senator Bible and Congressman Engle, would not be applicable.

However, [illegible] proposing passage of S.2662 in isolation, without consideration of major related activities by the DOD [impending land withdrawals, major airbase construction, proposed supersonic aircombat zones, electronic warfare intensification, major expansions of adjacent military operations areas (airspace)] will have the same effect as negating the stated purpose of the Engle Act.

2. INTEGRATED AIR WARFARE TRAINING COMPLEX

The 21,000 acres of Bravo 20 are part of a plan to establish an Integrated Air Warfare Training Complex (IAWTC) in northern Nevada of approximately 6000 square miles.

There are numerous elements to this project, each of which is being implemented in isolation, without proper environmental review. Unfortunately, the ultimate result will be physical and mental harm to residents and citizens and property damage. The costs of such an enterprise, if it is truly necessary, must be internalized. Because the costs will be high, the effects and relationships are denied by the DOD and as airspace is as critical to the entire project as land, the FAA now fills the role played by the DOI until 1958. Perhaps 30% of the airspace over Nevada is special use airspace, given to the military by the FAA. This Nation requires the passage of an Engle Act of the Air. Federal agencies such as the FAA cannot be expected to respond to a military agency request for 300,000 cubic miles of airspace for reasons of national defense, with any more appropriate or inquisitive responses than were typical of the DOI land give-aways decried by Congress.

The IAWTC and the present changes underway at Navy Fallon, were described in the Continental Operations Range DEIS published in 1974 by the Air Force. Presumably due to vigorous protest by the State of Nevada, lack of funds and environmental problems of an unsolvable nature, COR never became a reality---in name.

However, the scheduled changes, improvements, integrations, requested in the COR document, have been followed as proposed in 1974. The IAWTC and consequently the small land withdrawal pertinent to S.2662 are in reality related to this overall project (in everything but name) by the DOD.

A careful review of the pertinent documents would convince the skeptic. Residents of Nevada are concerned. Despite such protections as seem to be available, we find BLM granting the Navy permission to place radar sites in Wilderness Study Areas. The permission is granted on the basis of a FONSI which is based upon a PEA done by the Navy. These documents, when reviewed are technically flawed and at times simply untruthful. The BLM, unable to judge properly, violates the laws of the Land; Wilderness Act, Section 603. S.2662 is involved.

Once again, the point is simply that S.2662 must be viewed in perspective and if the spirit of the Engle Act is considered, then this Bill cannot be approved in isolation.

To the extent that the land withdrawal addressed by S.2662 is viewed in isolation, Nevadans' concerns are pertinent to the local area.

——Will the water supplies be altered?

——What is the effect of Class 4 lasers being operated within a short distance of a major commerical airway?

——What will be done to protect ground dwellers and aircrews from the hazards of training aircraft "spillover"?

etc.

Members of this committee may be skeptical of these comments and opinions, or if these statements of fact are perhaps half believed, even confused as to what the Navy's real proposal is. This latter condition might be viewed as an historically comfortable position to take. Representative Cliff Young of Nevada, quoted in Report #2856 referred to earlier, stated:

> "Gentlemen, I am definitely not opposed to the Navy's proposal regarding the Nevada withdrawal. It is simply that I do not know what the proposal is. My constituents share this feeling of confusion."

3. ENGLE ACT, SECTION ONE, PART FOUR

Due to the vagaries of nature and of history, Bravo 20 is one of the few remaining public lands which cannot be withdrawn under the Engle Act because under Section One, Part Four, the Act becomes "inapplicable" to these lands.

The history of Bravo 20 establishes this fact. Thus, it is clear that the Engle Act is an illegal instrument for obtaining the transfer of these public lands to the Navy and DOD. Consequently, the Bill, S.2662 must be withdrawn from consideration by the Senate and the House, lest a Bill be inadvertently and unlawfully passed.

SUMMARY

1. S.2662 represents a small segment of an attempt to "legally" circumvent Constitutional and statutory laws.

2. S.2662 is de facto unlawful as the Engle Act does not apply to the public lands included in the Bill.

3. This Nation requires an Engle Act of the Air, dedicated to the same purposes as the Engle Act of 1958, just different spheres of influence.

4. "...The gentleman asks whether we have got the Navy stopped. We have locked the front door, the back door, we have locked the windows, and then they came down the chimney, so now we have got the chimney blocked,I think."

(Mr.Engle speaking, Congressional Record,
House, 1957, p.5526)

Many residents of Nevada, from the Groom Mountains to the Clan Alpines, feel that Mr. Engle would be dismayed to discover that someone apparently has unlocked the front door again.

Senator WALLOP. I appreciate you both being here.

I am going to call the subcommittee adjourned or in recess for however long it takes to vote. I also would warn witnesses that I am going into deep and dark consultations on the Wyoming wilderness bill at 4 o'clock. We will do the best we can to get everybody accommodated, as you will have to do the best you can to get us all in.

We will stand in recess.

[Whereupon there was a recess.]

Senator WALLOP. I appreciate the understanding and cooperation of the witnesses. We have now S. 2661 and immediately subsequent to that—that is right, you were just finishing S. 2660.

Mr. EDWARDS. Yes; I had just a short amount left on S. 2661.

My only final comment was that we do recommend enactment of S. 2661.

Senator WALLOP. I appreciate it. Then we have S. 2662, first, Mr. Roth.

STATEMENT OF A. JEFFREY ROTH, CONSULTANT FOR POLICY PROCEDURES AND LEGISLATION, REAL ESTATE DIVISION, NAVAL FACILITIES ENGINEERING COMMAND

Mr. ROTH. Thank you, Mr. Chairman. I am Jeffrey Roth, consultant for Policy, Procedures and Legislation, with the Real Estate Division, Naval Facilities Engineering Command. As has been the practice here, I will summarize my statement, which has been submitted for the record.

The Department of the Navy supports enactment of S. 2662, a bill to withdraw 21,576 acres of public lands in Churchill County, NV for 25 years for use by the Department of the Navy as a training and testing area. These lands comprise a portion of the BRAVO-20 weapons range at the naval air station, Fallon, NV. The purpose of the withdrawal is to continue existing use of the range.

BRAVO-20 is located within the northern section of Carson Sink, a dry lake bed in northern Nevada. The range is used for pilot training in live bombing and weapons delivery exercises. The range target area is about 9,000 acres of public and private lands, which has been used since World War II under leases and permits. Due to higher speed aircraft approaches over the years, it has resulted in many ordnance drops outside the target area.

To ensure public safety from unexploded ordnance, the range has been expanded to encompass approximately 41,000 acres of public and private lands which are interspersed in a checkerboard pattern, as indicated on the map to my left. Purchase of fee title of the private lands within the range was authorized and funded by Congress in 1981. These lands have been acquired.

When we supported that acquisition process, we also indicated on our justification that we would be coming forward with the land withdrawal shortly on the heels of that. We applied for the land withdrawal in 1978.

The aircraft using BRAVO averages between 580 and 710 flights per month. They use it to drop many types of ordnance including machinegun and cannon projectiles, air-to-ground rockets and large, general purpose bombs of up to 2000 pounds each. In addition, many aircraft may jettison fuel tanks or other unsafe ordnance onto the range. These operations have resulted in a high degree of contamination to the lands from unexploded ordnance.

Although the Navy periodically clear the surface, the danger through ordnance contamination cannot be eliminated in this way. Uncontrolled private use of the surface for mining activities under the Mining Act would present a safety hazard and would also be incompatible with continued range operations. The lands will therefore be withdrawn under this bill from operation under the Mining Act. Because mineral leasing is subject to consent and conditions imposed by the surface managing agency, the lands will be open to mineral leasing. Our leasing requests would be considered on a case-by-case basis.

There are no locatable minerals identified within the withdrawal area nor have any mineral claims been located. There are four inactive gas and oil leases on a portion of the range. They will expire shortly and there have been no drilling operations out there.

This concludes my prepared remarks, Mr. Chairman.

[The prepared statement of Mr. Roth follows:]

Not for Publication Until Released
By the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
United States Senate

STATEMENT OF

A. JEFFREY ROTH

CONSULTANT FOR POLICY PROCEDURES AND LEGISLATION

REAL ESTATE DIVISION

NAVAL FACILITIES ENGINEERING COMMAND

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

AUGUST 8, 1984

Mr. Chairman and members of the Subcommittee, I am A. Jeffrey Roth, Consultant for Policy, Procedures and Legislation, Real Estate Division, Naval Facilities Engineering Command. I am pleased to appear before the Subcommittee to discuss S.2662, a bill to withdraw 21,576 acres of public lands in Churchill County, Nevada for 25 years for use by the Department of the Navy as a training and testing area. These lands comprise of portion of the BRAVO-20 weapons range at the Naval Air Station, Fallon, Nevada.

The BRAVO-20 range is located within the northern section of Carson Sink, a dry lake bed. The range is used for pilot training in live bombing and weapons delivery exercises. Because it is the most remote range from inhabited and developed lands in the United States, it is used for training exercises not practiced at other ranges. The range target area, comprising 8,960 acres of public and private lands, has been used since World War II under leases and permits. High speed aircraft approaches to the range have resulted in many ordnance drops outside the target area. To insure public safety from unexploded ordnance, the range has been expanded to encompass approximately 41,000 acres of public and private lands which are interspersed in a checkerboard pattern. Purchase of fee title to the 19,430 acres of private lands within the range was authorized and funded by Congress in 1981. The private lands have been acquired. An application for withdrawal of the public lands was filed on May 10, 1978.

The Water and Power Resources Service (formerly the Bureau of Reclamation) has withdrawn 14,748 acres of the 21,576 acres proposed for withdrawal by the Navy for flooding, overflow and seepage purposes. Although this land use is not in conflict with Navy use, the Water and Power Resources Service has indicated the intention to relinquish its withdrawal regardless of the outcome of the Navy withdrawal request.

The number of aircraft using BRAVO-20 averages between 580 and 710 per month. Many types of ordnance have been used including aircraft machine gun and cannon projectiles, air-to-ground rockets and large, general purpose bombs of up to 2,000 pounds each. In addition, ordnance containing napalm has been employed, phosphorus flares and released over the area and aircraft may jettison fuel tanks or unsafe ordnance as well. These operations have resulted in a high degree of contamination to the lands from unexploded ordnance. The soft sedimentary composition of the Carson Sink is most conducive to ordnance becoming buried well below the surface. Although Navy personnel periodically clear the surface area of unexploded ordnance and other hazardous materials, the danger due to ordnance contamination cannot be eliminated in this way. Uncontrolled private use of the surface and subsurface for mining activities under the Mining Act of 1872 would present a safety hazard and would also be incompatible with continued range operations. The lands will therefore be withdrawn from operation of the Mining Act of 1872. Because mineral leasing under the Mineral Leasing Act of 1920 is subject to consent and conditions imposed by the surface managing agency, the lands will be open to mineral leasing. Leasing requests would be considered on a case by case basis. Due to the contaminated state of the lands and the nature of the operations at BRAVO-20 it is unlikely, however, that leasing requests could be approved. No locatable minerals have been identified within the withdrawal area nor have any mineral claims been located. Mountain Fuel Supply Company has four oil and gas leases on seven sections of land within the withdrawal area but has not commenced drilling operations. The leases expire in 1985.

The Navy has prepared an environmental assessment for the proposed withdrawal. This process included coordination with affected federal state and local agencies as well as the general public. The assessment concluded that continued use of the land by the Navy for aircraft training and testing purposes will not have a significant impact on the quality of the human environment and that an environmental impact statement is not required to comply with the requirement of the National Environmental Policy Act of 1969.

This concludes my prepared remarks. Thank you for the opportunity to explain the Navy position on S.2662.

Senator WALLOP. Thank you, Mr. Roth.
Mr. Edwards.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2662; ACCOMPANIED BY JIM GILLETT, CHIEF, DIVISION OF REFUGE MANAGEMENT, FISH AND WILDLIFE SERVICE

Mr. EDWARDS. Thank you, Mr. Chairman. I am Frank Edwards, Assistant Director for Land Resources for the Bureau of Land Management. I appreciate the opportunity to appear before this subcommittee to testify on behalf of the Department of the Interior's position on S. 2662. I have submitted a full statement for the record and will summarize that statement.

Section 1 of S. 2662 would withdraw approximately 21,500 acres of public land in Churchill County, NV, from all forms of appropriations under the public land laws, including the mining laws, but not the mineral leasing laws. The lands would be reserved for use by the Department of the Navy as described by Mr. Roth.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. Again, the Secretary of the Navy would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands for other military departments and agencies of the Department of Defense.

Section 2 further provides that the Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Navy, would be required to develop a resource management plan and an implementation program for use and management of all lands affected by the act.

Section 3 provides that the withdrawal that would be established by the bill is not intended to affect any water rights concerning the lands.

Section 4 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal.

The Department strongly recommends enactment of this legislation. That concludes my summary remarks.

[The prepared statement of Mr. Edwards follows:]

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STATEMENT OF FRANK EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2662, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE NAVY CERTAIN PUBLIC LANDS FOR THE BRAVO-20 BOMBING RANGE, CHURCHILL COUNTY, NEVADA, FOR USE AS A TRAINING AND WEAPONS TESTING AREA AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of the Interior's position on S. 2662.

Section 1 of S. 2662 would withdraw approximately 21,576.40 acres of public land in Churchill County, Nevada, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. The lands would be reserved for use by the Department of the Navy as a testing and training area for aerial bombing, missile firing, tactical maneuvering and air support, and for other defense-related uses.

Section 2 would establish responsibility for management of the lands that would be withdrawn by the bill. The Secretary of the Navy would have exclusive jurisdiction over the management of the lands for military purposes and could authorize use of the lands by the other military departments and agencies of the Department of Defense.

Section 2 further provides that the Secretary of the Interior would be responsible for managing the natural resources of the involved lands, including the issuance of cooperative agreements relating to natural resources, easements, mineral leases, and rights-of-way. The Secretary of the Interior, after consultation with the Secretary of the Navy, would be required to develop a resource management plan and implementation program for use and management of all lands affected by the Act. The Secretary of the Interior and the Secretary of the Navy would be required to enter into a memorandum of understanding to implement the required plan and program.

Section 3 specifies that the withdrawal that would be established by the bill is not intended to affect any water rights concerning the lands.

Section 4 provides that the withdrawal that would be established by the bill shall terminate 25 years from the effective date of the Act. That section also establishes a procedure for returning the withdrawn lands to the jurisdiction of the Department of the Interior upon expiration of the withdrawal, and a procedure to be used for administering lands that cannot be certified as safe due to their contaminated state. In addition, the section specifies that if the Navy has a continuing need for any or all of lands after the expiration date, and files an application for renewal of the withdrawal, the withdrawal will continue pending processing of the application and a decision on the proposed withdrawal by the Secretary of the Interior, and the Congress, as appropriate.

We strongly recommend that this legislation be enacted.

Although the bill would withdraw approximately 21,576 acres of public land, an additional 19,430 acres of Navy fee-owned lands are interspersed with the public lands in a "checkerboard" pattern and are also used by the Navy for range purposes. Of the 21,576 acres involved in this action, approximately 14,748 acres are already withdrawn for use by the Bureau of Reclamation; however, the Bureau of Reclamation has expressed its desire to relinquish its withdrawal.

The lands involved in the proposed withdrawal have been used continuously by the Navy since World War II for weapons testing and training purposes under authority of a number of special permits and leases.

Because many of the weapons used during those exercises failed to detonate, significant portions of the range, both inside and outside the primary target area, are heavily contaminated. Decontamination of the range, to the extent that public use or mineral exploration could be certified as safe, would be difficult to achieve at the present time because of the relatively primitive state of existing technology and the expense of available decontamination methods. However, the bill establishes a procedure regarding the administration of contaminated lands following the intention to terminate the withdrawal. That procedure involves the retention, by the Navy, of the contaminated lands but requires a review of that status every 5 years.

Legislation is required for the proposed withdrawal because the Act of February 28, 1958 requires that withdrawals of more than 5,000 acres of public land for any one project or facility of the Department of Defense be accomplished only by an Act of Congress.

There are no locatable minerals on the land and no mining claims have been recorded. There are five valid but inactive oil and gas leases within the perimeter of the range. The land is also valuable for geothermal and sodium resources. There are no active geothermal or sodium leases on the land, although there are sodium leases outside but immediately adjacent to the range.

All of the land proposed for withdrawal lies within a large expanse of barren alkali flat habitat consisting of a dry lake bed or playa. Playa soils are notable for high salt concentrations and are totally devoid of vegetation. There is one sand dune within the Range but no threatened or endangered plant species were found within the dune. Similarly, no threatened or endangered wildlife species were observed within or near the Bravo 20 Range.

We have identified some typograpical errors in the bill. We would be happy to work with the committee staff to correct the errors.

This concludes my statement. I would be happy to respond to any questions on this bill.

Senator **Wallop**. Thank you very much, Frank. I am going to turn the chair over to Senator Hecht for the remainder of the witnesses, which include three public witnesses and any questions that he may have of any of the witnesses.

Senator **Hecht** [presiding]. To all of you, this is sort of a normal day, with the rollcall and all of the committee meetings and everything.

Mr. Roth, I would first like to commend you on the prompt and courteous responses to the inquiries from my office. My staff is very appreciative and so am I.

Just a few points for the record. When was the notice for the land withdrawal published in the Federal Register?

Mr. **Roth**. It was published on May 10, Mr. Hecht. I am sorry, May 10, 1978.

Senator **Hecht**. 1978. How much interest was expressed?

Mr. **Roth**. During the public notification process there were a number of letters that were written in and telegrams written into the Bureau of Land Management. They published a public news release on the proposal. I believe there were 8 or 10 letters that came in, 1 or 2 in support; 6 or 7 expressing certain problems or objections to the withdrawal.

Senator **Hecht**. Were those expressing concern or opposition contacted by the Navy?

Mr. **Roth**. I do not believe that we contacted them directly, sir. We did hold some public scoping sessions and opened up some meetings with the county commissioners, for example, to public question and answer sessions.

Senator **Hecht**. Would you provide the questions and answer sessions for the record please?

Mr. **Roth**. Yes, sir.

[The information follows:]

An examination of the record shows that on May 11, 1978, the Bureau of Land Management's Nevada State Office published a notice in the Federal Register inviting public comments on the Navy's proposed withdrawal of the Bravo-20 Range. The notice also indicated that persons desiring a public hearing on the matter had to submit a request for such a hearing, in writing, prior to June 12, 1978. In response to the May 11 notice, five telegrams and three letters were received. Four of the telegrams stated only that the commenters had mining claims on the lands, and opposed the withdrawal, while the fifth registered general opposition to the withdrawal. Two of the letters expressed general opposition to the action; the third letter expressed support for the proposal. None of the comments requested a public hearing on the matter. On the basis of the contents of these few comments, it was concluded that there was no significant public interest in the action and that a public hearing was not required.

Because the comments received did not present any issues that required a response but merely voiced an opinion, no response was sent to the commenters.

Although we did not respond to the commenters directly, all of their comments were considered in formulating our position on the proposed withdrawal. In particular, the comments of the mining claimants were accommodated in section 1 of S. 2662, which provides that the withdrawal would be subject to valid existing rights.

TRANSCRIPT OF PUBLIC HEARING

BE IT REMEMBERED, that the above-entitled matter came on regularly to be heard at Fallon, Nevada, Monday, August 20, 1979, in the Third Judicial District Courtroom, in the Law Enforcement Facility, 73 North Maine Street, commencing at about 7:20 P.M. The hearing was conducted before a Hearing Commission composedof:

Captain Leonard E. Guiliani, Commanding Officer, Fallon Naval Air Station, Fallon, Nevada.

Commander Al Nichols, Operations Officer, Fallon N.A.S.

Mr. Jim Regan, Chief Engineer, Public Works, Fallon N.A.S.

Mr. Douglas Moore, Chairman, and Mr. Al Fung, from the Western Division Naval Facilities Engineering Command, San Bruno, California.

Mr. Robert Foster and Mr. Frank Maxwell, who are both representatives from the Bureau of Land Management employed in the State of Nevada.

WHEREUPON the following proceedings were had:

CHAIRMAN MOORE: Well, I guess we might as well kick off. I don't know whether any other folks will show up but if they do we will bring them up to date.

My name is Douglas Moore, I am a planner with the Western Division, Naval Facilities Engineering Command at San Bruno, California, and it is our project to assist the Naval Air Station with an environmental analysis of the continued use of the B-20 Training Bombing Range at the Naval Air Station at Fallon.

Before I go on I will introduce the people around the table here. This is Capt. Guiliani, Commanding Office N.A.S. Fallon. Commander Nichols, the Operations Officer on my right. And Jim Regan the Chief Engineer from Public Works, Base Maintenance. On my left here is Bob Foster from the Bureau of Land Management, Frank Maxwell from B.L.M., and Mr. Al Fung is my Planner in Charge on this job. And we are here to put together this environmental analysis.

The purpose of this project is to withdraw approximately 21,600 acres of public domain land at the existing B-20 range. You can see the drawings on the wall to your left and right. And it is a continuation of range use which is critical to the training programs necessary for Naval and Marine Corps Air Forces, and vital to the interests of national defense.

The statement we handed out to you has an attached map that shows the approximate location of the range. And, of course, these maps on the table here, and on the walls, are available for your review.

The purpose of this meeting is to receive public comments concerning the Navy's plans to continue to use the B-20 Range, and answer comments received as a part of the environmental analysis we are preparing. This meeting is part of the scoping process for the environmental analysis.

Also, as a part of this project, the Navy plans to purchase the railroad land shown on the map in the cross-hatched sections comprising approximately half of the range. In other words, on the map you see on the left and the right in the room, about half of the land is Bureau of Land Management land, and about half of the land is railroad land. So the total range which has been in use for some time, comprises approximately 40,000 acres. And the initial target area of the range is a place they call Lone Rock, approximately in the center of the range. And the targets are spotted around this Lone Rock area.

The purpose of the total land withdrawal and boundaries, as you see on the drawing, is to protect the public from unexploded ordinances known to exist in the area. The vast majority of the range use is the immediate target area, but by the nature of the operation some bomb drops stray a bit from the immediate target area and unexploded ordinance is known to exist. We feel that there is pretty close to a hundred percent safety zone within this proposed outer boundary in that the situation is such that there is very little chance of unexploded ordinance ever going beyond that boundary.

So, at this time, if there are any questions or comments from the audience I would like to receive them. Mr.

Fung has passed out a piece of paper, if you wish to make a written statement we can take that and respond to that later. Or, if you care to just make a verbal statement why we will certainly hear that now.

MR. WEISHAUPT: I am Marvin Weishaupt and I have a permit out there. When I came here I didn't know where your outlying borders was going to be and I was quite interested. But I will, at a later date, have a written statement or comments on your project.

MR. MOORE: Okay. If you could send your written statement to the Naval Air Station, Fallon, attention Jim Regan, R-e-g-a-n, of the Public Works Department, and he will get them to us so they can be answered.

I just wanted to make the point that the existing range boundaries are posted and we are not expanding beyond that area that is currently posted now. And we want to, we do plan, as part of this project, to better post. And we will define the boundaries for future review out there too.

MR. WEISHAUPT: On the east side, where your boundary is, how close do you come to the county road there, the north and south county road?

CHAIRMAN MOORE: Jim, can you answer that one?

MR. WEISHAUPT: A mile?

MR. REGAN: Yes, it is a good mile. It goes quite a ways over those sand dunes.

MR. WEISHAUPT: The boundary will be out on the flat?

MR. REGAN: This is definitely in that flat area.

It is well backof the playa or the beginning of the foothills area. You can see kind of on that topography there, the northwest corner and the northeast corner are still within say about a half a mile to a mile of where the topography starts climbing up pretty rapidly. And then again on the southeast we are about a mile or so from that road and the rugged topography.

MR. WEISHAUPT: Will this area ever be fenced, is that your anticipation if you purchase the land for the Navy? Are you intending to fence that area or is it still going to be left open?

CHAIRMAN MOORE: We do intend to post it better. We have got to study that question. The cost of fencing, at about $20.00 a lineal foot, is a prohibitive problem. But I am sure if that need is made known we will have to consider a better marking system in some way.

It might help to show you on this relief map here from the Air Station, which is in the center, this is the range we are talking about here to the northeast. And the Station happens to have 3 other ranges to the south that are used for different training purposes. And you can see we are quite a ways from the rugged relief of the mountains. I guess this is called the West Humboldt Range here, and the Stillwater Range to the east.

MR. WEISHAUPT: There is a lot of use on that flat in the weekends. You can notice it from the mountains when you are out there, you can see them out there. There is a lot of use, there is a lot of weekenders spend a lot of time out there.

CHAIRMAN MOORE: We flew it today and this is one of the problems of keeping off road vehicles out of an area where they might be in trouble if they get too far in. There is definitely unexploded ordinance out there and after a few years the impressions wash away and you just can't tell where a problem might lie. That is why the perimeter is needed to post it to protect the public.

MR. WALKER: Has there been any accidents that you are aware of because of public infringement into the area?

CHAIRMAN MOORE: I am not aware of any on this range. We have a larger range in southern California where a couple of people have gotten in. No one has been killed but the security people had to take a fellow out once who was cutting the fins off of a live 500 pounder with a cutting torch and he was fortunate the thing didn't go off. But there is definitely live rounds that land out there that don't discharge and they are a problem. There is a scrap metal problem.

In your normal operations of the bombing range do you make any periodic attempts to locate and defuse live ordinance?

COMMANDER NICHOLS: About once or twice a year we send out an E.O.D. team, and explosive ordinance disposal team. They collect and defuse what they find. The problem is what is buried they can't find without an expensive operation.

CHAIRMAN MOORE: Good evening.

MR. HESS: Hi.

CHAIRMAN MOORE: We are just having a hearing here, a scoping hearing about the Navy B-20 Bombing Range and its continued use. Is this your interest?

MR. HESS: Yes it is.

CHAIRMAN MOORE: I will let you have a chance to read the program if you would like to and we can answer any questions you may have.

MR. HESS: Okay, thank you.

CHAIRMAN MOORE: Any other questions at the moment?

(There were no questions.)

COMMANDER NICHOLS: I might add a further clarification to your question about how often we sweep for unexploded ordinance. The Captain was just telling me that whenever we go out to modify or check a target and, of course, any time we send people into the range for any function, they send a team out with them to clear the way and spot check. So it is done more frequently than twice a year.

CHAIRMAN MOORE: I might add just a bit of history. The range use goes back to approximately 1942 when the Base was first developed in World War Two. And it has been pretty much a continued use since the early 40's.

MR. WEISHAUPT: Well, I just as well get back to the ranch gentlemen.

CHAIRMAN MOORE: Okay, thank you. If there are no other comments I guess we can adjourn here in a few moments. Thank you for coming.

MR. WEISHAUPT: You betcha.

CHAIRMAN MOORE: Good night.

MR. WEISHAUPT: Good night.

MR. WALKER: Are you currently using the bombing range or are you just proposing to expand your use?

CAPTAIN GUILIANI: It is pretty much continuously used. This particular week we are not using it because the runways are shut down at the Station right now for some major repairs, asphalt overlays. But the range will probably be in use again in a few weeks. It can still be used when the runways are closed down for aircraft from N.T. It has been closed for range maintenance for the last two weeks but today it has opened up again and it is ready for utilization right now.

CHAIRMAN MOORE: I might add that the range is often used 7 days a week, year around, because they have Reserve Aviators on weekends when the regular squadrons may not be using them, to fly in from Reserve Headquarters.

MR. WALKER: But is your current proposal, is that to expand the use or increase your use, or to insure the present use?

CHAIRMAN MOORE: It is just really to insure the continued present use. I think as a part of the plan to better define some of the target areas which are right now ringed with rubber tires or old scrap vehicles. But eventually I think we are going to have some better silhouettes around the target areas, for better identification.

Good evening. We have some programs here.

(Mr. and Mrs. Ira Kent walked into the courtroom at this point.)

MR. KENT: I would like to make a comment, I have seen them. I would like to make a comment. My name is Ira

I live here in Fallon. And I would not have known about the public hearing if I hain't heard about it today in Reno. I think as far as being advertised to the public, I don't think it was very well handled.

Furthermore, I would like to state that I am very much opposed to the Navy taking over any additional land. We have had too much ground taken by public government agencies in the past few years. We have the Forest Service with their Wilderness Areas. We have the B.L.M. with their Wilderness Areas. We have proposed missile sites, right on down the line. Where are the people in the State of Nevada going to go, pretty quick, if these public agencies keep taking these lands.

And furthermore, you are taking up one of the pieces of land that probably has more artifacts on it than anyplace in the State of Nevada. And I think it should be stopped as far as taking additional land just due to this fact, the artifacts that is in that piece of land that you are talking about.

CHAIRMAN MOORE: I might add a clarification to your comments. As you see on the map on the wall there, we are in an existing range that has been there since the '40's. The only action here is to permanently withdraw the land rather than work on a more or less temporary lease from the Bureau of Land Management. We are not going to expand this range into any virgin territory. This is just to establish existing boundaries and stabilize them.

We are preparing an environmental assessment that is going to be looking for archaeology and artifacts so we will know in a few months what may be available out there.

MR. KENT: And who is going to do the environmental impact statement for the artifacts? Is the State of Nevada involved?

CHAIRMAN MOORE: We are working with the Bureau of Land Management on the scope of the work.

MR. KENT: Don't you think the State of Nevada should also be involved?

CHAIRMAN MOORE: Oh, yes they will. We have written to the State Clearing House in the state government for their participation in the scoping process so they will definitely be involved and see the results of this work. And they may very well have some new ideas or things they want us to do. That is part of the reason for the meeting tonight, is to start this scoping process.

MR. KENT: Well, I certainly will say the public wasn't aware of your meeting tonight.

CHAIRMAN MOORE: Well, it is unfortunate. I think the word was published locally but you apparently didn't see it locally.

MR. KENT: It must have been about so big (indicating).

CHAIRMAN MOORE: I don't know where it occurred in the local papers.

MR. REGAN: It was in the local papers several times, under public notices.

MR. KENT: Okay.

MR. MAXWELL: I was kind of curious. You mentioned artifacts. What type of artifacts are there and where might they be?

MR. KENT: Well, I was born and raised here in the state, born and raised right here in Fallon. And I would say that probably some of the best collection of artifacts that are in the state have come from off of that big flat.

MRS. KENT: Arrowheads.

MR. KENT: Yes arrowheads. Bows. There have also been, what other types of artifacts, beads. Lots of beads, trade beads that came out of California. And if this is closed off to the general public I think that you are closing off a lot of history. Not only to the State of Nevada but to the whole United States. In other words, we have people right out here now at Grimes Point that are opening up and working in a cave there that they are getting back into artifacts how many years back we don't know. In other words the same thing could be down there. There has been no diggings down there on the flats and there is a lot of knolls down there that have burial grounds on them, and so on and so forth. I believe that there is probably as much history down there on those flats as there is any place in the state. And I just hate to see it disturbed. In fact I think the State of Nevada and the Federal Government should be interested in preserving these artifacts and the history that we have down there.

CHAIRMAN MOORE: Well, we thank you for your comments and we are, as I say, working with the Bureau of Land Management on this action. So part of this environmental assessment effort will record what is found out there. And, in one sense, I guess they will be preserved just by the fact that the boundaries will be somewhat secure. At the moment we really don't know what is there until we have a look.

CAPTAIN GUILIANI: Are you aware of anything that is specific that is in those boundaries there?

MR. KENT: Not from a map like that. Yes I do.

CAPTAIN GUILIANI: Well, there is a knoll there.

MR. KENT: Black View. Oh sure, I am aware of that.

CAPTAIN GUILIANI: Here we go.

CHAIRMAN MOORE: Here is a map that shows the general area, right here.

MR. KENT: All right. How far is this line here?

CHAIRMAN MOORE: We are basically within this area right here. Those grids.

CAPTAIN GUILIANI: Just call it this square right here.

MR. KENT: This is the end of the sand mountains?

CAPTAIN GUILIANI: Yes, the end of the sand dunes. This is the northernmost water.

CHAIRMAN MOORE: This is the water here.

MR. KENT: And the sand dunes comes clear down into here?

CAPTAIN GUILIANI: They don't go into the area we are talking about.

MR. MAXWELL: They show on the map on the wall in kind of that comma shaped area. The brown area.

CAPTAIN GUILIANI: Each one of the sections is a mile down.

COMMANDER NICHOLS: These are the sand dunes.

MR. KENT: These are the sand dunes?

COMMANDER NICHOLS: Right.

MR. KENT: Well, I know that this whole area through here has got artifacts all through it. And even north of there.

CAPTAIN GUILIANI: We should probably put this in the study.

MR. MAXWELL: Are they confined to the dune areas?

MR. KENT: Oh no, not at all in the dune areas.

MR. MAXWELL: Right out on the flat?

MR. KENT: Right on the flat and north of the dune area there are artifacts. In fact within four years before the Navy even came in here there were a lot of artifacts found right on that Black Peak right there. Right where the bombing area is.

CHAIRMAN MOORE: Al, you might give him one of your forms and he can send in the written comments to the Air Station attention Jim Regan. And if you can identify, as well as possible, where you think your artifacts may be we will try to look at it.

MR. KENT: All right.

CHAIRMAN MOORE: We do plan approximately a 15% sampling, or better, of the entire range to really have a look at what artifacts are there.

MR. KENT: All right.

MR. BUSBY: I might make a comment. I am Colin

Busby of Basin Research Associates. And we are the principal investigators of the archeology. I am here only as an observer.

CAPTAIN GUILIANI: If you have areas of particularly high interest send them in, it will give some direction to the people who will do the study.

MR. KENT: Okay.

CHAIRMAN MOORE: Thank you very much.

MR. KENT: Mr. Chairman?

CHAIRMAN MOORE: Excuse me?

MR. KENT: There is one other remark I might make.

CHAIRMAN MOORE: Go ahead sir.

MR. KENT: Which I think probably you should take it into consideration. And that is the fact that you know the Nevada State Legislature has passed some legislation saying that all of the land administered by the Bureau of Land Management belongs to the State of Nevada. In other words, there will be a suit filed without a doubt and I would question whether you should make the application to the State of Nevada or should you make it to Congress. In other words, if you make your application to Congress the State of Nevada will probably step in and say that you have no ground for it. I don't know if you are aware of that or not.

CHAIRMAN MOORE: Yes I am. I have understood a little of the background going on.

MR. KENT: In fact I attended a meeting today in Reno on this same thing that is how I became aware of the meeting tonight. Otherwise I wouldn't have known anything about it. But I think that is something you should definitely take into consideration, who does own this land. Does the Federal Government own it or does the State of Nevada own it? And I think the courts will resolve it. But until such time as the courts resolve it I don't think that you have any claim, or can make any claim, or request any withdrawal until that time.

CHAIRMAN MOORE: Well, I understand this action may be happening.

MR. KENT: It is happening.

CHAIRMAN MOORE: At the moment we are dealing with the Bureau of Land Management and we will see what takes place after that.

MR. KENT: Thank you.

CHAIRMAN MOORE: Okay, thanks very much. Well, I guess we can wrap it up. I think we have given everybody a fair amount of time to show. And thank you very much.

(The hearing was closed at 7:55 P.M.)

PUBLIC PARTICIPANTS: (Plus those who just appeared)
Colin I. Busby, Basin Research Associates, Oakland, California.
Mr. George Fisk, 4055 Alcorn Road, Fallon, Nevada.
Mr. and Mrs. Ira Kent, 13333 Stillwater Road, Fallon, Nevada.
Mr. Mike Hess, Nevada Department of Wildlife. (See NOTE)
Mr. Marvin Weishaupt, 4020 Freeman Lane, Fallon, Nevada.
Mr. Ken Walker, Bureau of Land Management, Carson City, Nevada.

NOTE: Mr. Mike Hess of the Nevada Department of Wildlife, wrote the following note on my roster of participants:

"The Department has had several opportunities to comment on this particular proposal. We have no objection."

REPORTER'S CERTIFICATE

I, Frank Weinrauch, a Certified Shorthand Reporter for the States of Nevada and Colorado, and a Registered Professional Reporter for the United States, DO HEREBY CERTIFY:

That the foregoing document, consisting of 15 pages, and this page, is a full, true and correct transcript of all proceedings had in the above-entitled public hearing held in Fallon, Nevada on August 20, 1979, to the best of my knowledge, skill and ability.

DATED and SIGNED at Fallon, Nevada this 14th day of September, 1979.

FW

FRANK WEINRAUCH - CSR #13.

Mr. **Edwards**. Mr. Chairman, if I might add to that, that copies of the proposed notice were sent to the then congressional delegation in 1978 and the Governor's office and the State planning and coordinating office and local offices of government. So the notice was received. I think it is customary that when written comments are received that they are responded to individually, but we would have to examine the record to be able to give you a clear, definitive answer on that.

Senator **Hecht**. Thank you. What is the difference between an environmental assessment and an environmental impact statement?

Mr. **Edwards**. Well, basically, they both are intended to comply with the requirements of the National Environmental Policy Act. An environmental assessment is usually done as a beginning to see what effect the proposed use might have. If it is determined that the effect would be a major Federal action, which would affect the environment, and is a major issue or one that might be of some controversy, a formal environmental impact statement is done. That includes public hearings and publication of a draft and a final statement.

On an assessment, there is simply a document written for the record of what that assessment consisted of and what the findings were and would not necessarily involve public comment or public hearings on it.

Senator **Hecht**. How was it determined that there was not a need for additional study?

Mr. **Roth**. If I may answer that, Mr. Hecht. We did what we considered a rather comprehensive environmental assessment, which I have here and which I believe I provided to one of your staff. In it we did a rather comprehensive study of all the issues. As Mr. Edwards said, there was a determination that there was not any major change in the use contemplated. There was a decision rendered through Navy channels in coordination with the Bureau and there was public notice, I believe in 1980, a Federal Register notice, requesting comments on the Navy's determination that an assessment was sufficient in this case.

Mr. **Edwards**. Mr. Chairman, I might add also that in that environmental assessment, there were some pages, it looks like pages 73 through 75 of that assessment, that list the individuals and organizations who were contacted concerning the assessment.

Senator **Hecht**. Mr. Roth, I understand that in the future the Navy will be releasing a draft environmental impact statement for a much larger section of property and air space around the Fallon area. I know that there were a couple of gentlemen in the audience who would like to have some indication of when this document will be released.

Could you give us an approximate date for the DEIS release?

Mr. **Roth**. Yes, sir. It is my understanding that we have draft environmental documents that should be available in the November-December timeframe. There will be two released in that general time period. One for an additional land withdrawal of other ranges at Fallon; and a second one that would address air space issues which are separate from the land withdrawal.

Senator HECHT. And would you provide those for the committee too please?

Mr. ROTH. When it is released, sir?

Senator HECHT. Yes.

Mr. ROTH. Yes.

[The requested information was supplied to the subcommittee and has been retained in the files.]

Senator HECHT. I am a bit disturbed with the reports I am hearing about the lack of communication, cooperation on the part of the Navy in dealing with the local inhabitants of this area. Could you explain to me and the committee how the Navy includes these individuals in the process?

Mr. ROTH. Yes, sir. There are a lot of different issues going on at Fallon at the moment. From what I have heard from the testimony from the gentlemen right before we broke, most of their concerns were over issues other than B-20. I will comment on them briefly and then go back and comment on the B-20 process.

On the other issues, the upcoming land withdrawal, the air space issues and other issues at Fallon, as part of our environmental process, the Navy is making what I understand to be every effort to work with the public and all affected State and local agencies. They spent a lot of time and money involved in this process and the process is continuing.

It has been our expectation that we could address all concerns and we know there have been a lot. I understand there is some litigation which I am not well briefed on on some of these issues, so I am a little hesitant to get into those areas. But I will just reiterate on those, particularly in view of the litigation, we have been making an extra effort to involve everyone who is interested, to listen and be responsive.

With regard to B-20 itself, as I mentioned, we did have some public scoping and some community meetings on this. As part of the EA process, there were a couple of opportunities for public comment and public input into what we were doing. In speaking to the commanding officer of the base the other day, he indicated to me that he made a very concerted effort to deal with the community on a very forthright basis with regard to the B-20 withdrawal so that everybody knew what was going on and was kept abreast of all developments on that particular proposal.

Senator HECHT. For the record, I would like to commend him. I think he has done an admirable job in public relation and running his command and I think he is quite an outstanding individual and quite a credit to the Navy.

Mr. ROTH. Thank you. I will tell him.

Senator HECHT. Could you give me some assurance that the Navy will increase their efforts to cooperate more fully with the people in this area?

Mr. ROTH. I can assure you, Senator, that we will cooperate fully with the people in the area and address their concerns. It has always been my understanding that we have been doing a very good job on it. If there are any areas we need to improve, I will make sure that the proper people know that we have to increase our efforts in those areas.

Senator HECHT. Mr. Robbins indicated there was a problem and that is the reason I'm addressing his testimony.

Mr. ROTH. I will discuss his particular concerns with the appropriate people in the Navy and make sure he is at least contacted.

Senator HECHT. Dr. Bargen from Fallon, who just testified briefly, operates a flying medical service to some of the more remote rural areas of northern and central Nevada. Can you give me some assurance if the Navy will try and work out something with Dr. Bargen in the future so that this important medical service is not curtailed?

Mr. ROTH. Senator, I am not really fully familiar with what his concerns are. I can reiterate that we will listen to him and try to deal with him in a way that we can reach some type of a settlement with him, but I would be very hesitant to give you any particular guarantees, because I am not really sure what his concerns are.

Senator HECHT. Basically Nevada in this area is very remote and the only way they have medical service is to call him, the flying doctor, and he flies in on different occasions and sees his patients and administers medical services.

Mr. ROTH. I guess I just did not really know much about that. We can go through the same procedure with the doctor as with Mr. Robbins, and just make sure his problems are addressed.

Senator HECHT. I have been to hearings in Fallon and I think just by sitting down you can work these out at certain times of the day by letting them know when certain things are taking place and he can work out his medical schedule.

Now for Mr. Roth and Mr. Rittenhouse. Some time in the past there was a proposal to establish a giant military operations area, comprising much of the land and air space of Nevada and Utah. I must say that there are those in my State who feel that even though this proposal was rejected, there is a piece by piece withdrawal that will eventually make this proposal a reality. There is much concern that this will sharply curtail both private and commercial air traffic in my State. Would you gentlemen comment on this?

Mr. RITTENHOUSE. I just heard of this, sir, today. It is something that is a historical fact that there was a proposal at one point and time. It is my understanding and my advice before we reconvened here that what they called the COR is no longer a viable option and as far as the Air Force is concerned, we consider it no longer a viable option.

Senator HECHT. Do either of you two gentlemen anticipate further withdrawal of land or air space for Nevada?

Mr. RITTENHOUSE. I am not sure on the air space, but certainly in the Air Force's case, what you have heard here today is what we are after in the foreseeable future, sir, yes. We have no further plans.

Senator HECHT. For the Navy?

Mr. ROTH. Senator, there was mentioned 181,000 acres, approximately, for other ranges at Fallon. We are working on that proposal. We do intend to brief you and the rest of the Nevada delegation to make sure you know about it. It has been in the works for a number of years. We do intend to pursue that.

Senator HECHT. Thank you. I would like to ask you gentlemen to produce for me and the committee a map of Nevada that indicates the withdrawn land and the restricted air space that is in any way controlled, restricted or significantly utilized by the military. Can you provide us with that?

Mr. RITTENHOUSE. Yes, sir, we will. You know, of course, that the air space aspect or FAA will get all of that together.

Mr. ROTH. Yes, sir.

[The map has been retained in subcommittee files.]

Senator HECHT. No further questions. Thank you, gentlemen, very much.

The next panel: Susan Hagood, Defenders of Wildlife; Robert McQuivey, Chief, Habitat Section, Nevada Department of Wildlife; and William Reffalt, Director, Wildlife Refuge Program, the Wilderness Society.

Since I called them in order, we will follow the same order. How is that.

Susan Hagood.

STATEMENT OF SUSAN HAGOOD, ASSISTANT DIRECTOR, WILDLIFE REFUGE PROJECT, DEFENDERS OF WILDLIFE

Ms. HAGOOD. Thank you very much, Senator Hecht, for the opportunity to appear before the committee today. I am Susan Hagood, assistant director of the Wildlife Refuge project at Defenders of Wildlife. Defenders is a national, nonprofit conservation organization with approximately 65,000 members.

My comments today will be restricted to S. 2657, a bill to withdraw and reserve for the Department of the Air Force certain lands within the Desert National Wildlife Refuge, NV. For the sake of brevity, I will summarize our concerns at this time and request that my complete statement be included in the record.

S. 2657 withdraws lands from Desert National Wildlife Refuge for Air Force purposes and gives the Secretary of the Air Force exclusive jurisdiction over the management of the lands for military purposes. The Secretary may authorize use of the lands by other military departments and agencies of the Department of Defense and the Department of Energy.

The National Wildlife Refuge Administration Act and the primary authority granted the Department of the Interior in managing these lands will remain operative except to the extent rendered necessary by national defense. This language essentially grants primary authority to the Air Force in its use of desert lands. This language must be changed to reflect the current status quo as established by the various MOU's governing military use of these lands, and in particular the 1976 Fish and Wildlife Service, Department of Air Force MOU.

S. 2657 should, therefore, be amended to delete the legal land descriptions in the bill and to be modified to expressly reaffirm Fish and Wildlife jurisdictional authority over the land and to ensure the compatibility of all Air Force activities within the refuge program.

Our second concern, amendments should also be added to this bill designating all qualifying lands in and around desert as wilderness. These lands were recommended for addition to the National Wilderness Preservation System at the completion of studies in 1971. Congressional consideration of this bill provides an excellent opportunity for the designation of these lands as wilderness, particularly in view of strong public desire for such a designation.

Third, provisions should be added to this bill which establish that it is the responsibility of the Air Force, as a temporary tenant of these refuge lands, to remove the byproducts of their activities. Specifically, S. 2657 should be amended to require that the Air Force conduct yearly cleanup of all exploded and unexploded ordnance on refuge lands for the protection of wildlife and the ecosystem.

Our final concern is perhaps our most serious. S. 2657 states in reference to desert lands under military use that, at the conclusion of such use,

> If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this act shall continue indefinitely and lands shall be retained and managed in accordance with the provisions of this Act.

This bill, therefore, gives the Secretary of the Interior the authority to dispose of a unit of the National Wildlife Refuge System. This is totally unprecedented. Under the Refuge Administration Act:

> Each area which is included within the system on January 1, 1975 or thereafter shall continue to be a part of the system until otherwise specified by act of Congress.

Defenders strongly opposes this precedent-setting provision in S. 2657, which allows the Secretary of the Interior to dispose of national wildlife refuge lands. The Air Force can in effect choose to contaminate desert, because of its primary jurisdiction to the point where the Secretary of the Interior is allowed to make a decision not to retain it within the system.

Thank you, Senator Hecht, for permitting Defenders the opportunity to testify before this committee. We strongly recommend Air Force activity on Desert National Wildlife Refuge be considered separately from other public land withdrawals as proposed in S. 2657.

[The prepared statement of Ms. Hagood follows:]

Defenders
OF WILDLIFE

STATEMENT OF SUSAN HAGOOD
on behalf of
DEFENDERS OF WILDLIFE
concerning
S. 2657
before the
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

AUGUST 8, 1984

1244 NINETEENTH STREET, NW • WASHINGTON, DC 20036 • (202) 659-9510

Defenders
OF WILDLIFE

Thank you very much, Mr. Chairman, for the opportunity to appear before the committee to comment on S. 2657, a bill to withdraw and reserve for the Department of the Air Force lands within Desert National Wildlife Refuge, Nevada. I am Susan Hagood, Assistant Director of the Wildlife Refuge Project at Defenders of Wildlife. Defenders is a national, non-profit conservation organization with approximately 65,000 members.

President Franklin D. Roosevelt established the Desert Game Range, now Desert National Wildlife Refuge (NWR), in 1936. Desert NWR is located in Nye, Clark and Lincoln counties in southern Nevada. The *primary reason* for the establishment of this refuge was the protection and preservation of resident poplations of Nelson's desert bighorn sheep (*Ovis canadensis nelsoni*) and their ecosystem.

The Nellis Air Force Range includes approximately 3,000,000 acres of federal lands, some 826,000 of which are located in Desert NWR. Since World War II, the Air Force and other armed services have conducted various military activities in and around Desert NWR, including bombing and rocket attacks on ground targets, firepower demonstrations and simulated battle conditions using a wide array of sophisticated electronic devices. Limits are placed on the extent of military activities on Desert lands, however, since this area is first and foremost a national wildlife refuge. The Secretary of the Interior is constrained in entering agreements with other parties by the National Wildlife Refuge Administration Act (16 U.S.C. S668dd), which states that all activities on a refuge must be compatible with the purposes for which it was established. This act specifies that wildlife and its habitat are to receive primary consideration on wildlife refuges.

The Secretary is further constrained by the Code of Federal Regulations which reads:

> All national wildlife refuges are maintained for the primary purpose of developing a national program of wildlife and ecological conservation and rehabilitation. These refuges are established for the restoration, preservation, development and management of wildlife and wildlands habitat;. . . and for the management of wildlife and wildlands to obtain the maximum benefits from these resources. (50 C.F.R. S25.11(b)) (Emphasis added)

A 1976 Memorandum of Understanding (MOU) between the Department of the Interior ("Interior") and the Department of the Air Force (DAF) correctly states that Interior has primary jurisdiction over lands within Desert NWR. This MOU, while placing restrictions on military activities, allows liberal use of Desert lands by the Air Force. Defenders would argue that current practices under this MOU strain the definition of compatibility and are arguably illegal.

S. 2657 would disrupt and deteriorate the refuge even more. For the reasons set down in the following pages, we oppose the bill as currently written.

S. 2657 Should Be Amended to Reaffirm the Primary Authority of the Fish and Wildlife Service

S. 2657 withdraws additional lands from Desert NWR for Air Force purposes and gives the Secretary of the Air Force "exclusive jurisdiction over the management of the lands for military purposes." The Secretary "may authorize use of the lands by the other military departments and agencies of the Department of Defense and the Department of Energy. . .". The National Wildlife Refuge Administration Act and the primary authority granted the Department of the Interior in managing these lands will remain operative "except to the extent rendered necessary by national defense." The language essentially grants primary authority to the Air Force in its use of Desert NWR lands. This language must be changed to reflect the current status quo as established by the various MOUs governing military use of these lands, and in particular the 1976 Fish and Wildlife Service (FWS)/DAF MOU.

S. 2657 should therefore be amended to delete the legal land descriptions in the bill and should be modified to expressly reaffirm FWS jurisdictional authority over the land and to ensure the compatibility of all Air Force activities with the refuge programs.

Amend S. 2657 to Include Wilderness Designations

Amendments should also be added to this bill designating all qualifying lands in and around Desert NWR as wilderness. These lands were recommended for addition to the National Wilderness Preservation System at the completion of studies in 1971. Congressional consideration of this bill provides an excellent opportunity for the designation of these lands as wilderness, particularly in view of strong public desire for such a designation.

Amend S. 2657 to Provide for Clean-up of Refuge Lands

Provisions should be added to this bill which establish that it is the responsibility of the Air Force, as a "temporary tenant" of these refuge lands, to remove the by-products of their activities. Specifically, S. 2657 should be amended to require that the Air Force conduct yearly clean-up of all exploded and unexploded ordnance on refuge lands for the protection of wildlife and the ecosystem.

Management of Desert Lands After Expiration of MOU

S. 2657 states in reference to Desert NWR lands under military use that, at the conclusion of such use:

> If the Secretary of the Interior declines to accept jurisdiction of such lands because of their contaminated state, the withdrawal created by this Act shall continue indefinitely and lands shall be retained and managed in accordance with the provisions of this Act.

This bill therefore gives the Secretary of the Interior the authority to dispose of a unit of the National Wildlife Refuge System. This is totally unprecedented. Under the Refuge Administration Act: "Each area which is included within the System on January 1, 1975, or thereafter. . . shall continue to be a part of the System until otherwise specified by Act of Congress. . .". (16 U.S.C. 668dd)

Defenders strongly opposes this precedent-setting provision in S. 2657 which allows the Secretary of the Interior to dispose of national wildlife refuge lands. The Air Force can in effect choose to contaminate Desert NWR because of its primary jurisdiction to the point where the Secretary of the Interior is allowed to make a decision not to retain it within the system.

Thank you, Mr. Chairman, for permitting Defenders the opportunity to testify before this committee. We strongly recommend Air Force activity on Desert NWR be considered separately from other public land withdrawels as proposed in S. 2657.

The U.S. National Wildlife Refuge System is unparalleled throughout the world. It deserves the most rigorous protection from exploitation of the nature that this bill would permit. S. 2657 would not only make Desert NWR unworthy of its designation, but would set a dangerous precedent and so undermine the strength of the entire refuge system.

Senator HECHT. Thank you very much. Your full statement will be a matter of the record, and I appreciate your cutting it down.

Robert McQuivey.

STATEMENT OF ROBERT McQUIVEY, NEVADA STATE DEPARTMENT OF WILDLIFE

Mr. McQUIVEY. My name is Bob McQuivey and I represent the Nevada State Department of Wildlife. On behalf of our agency and the public which we serve, I would like to express our appreciation to this committee for providing the opportunity for public input on an issue which is of paramount importance and significance to Nevadans.

Rather than going through the prepared part of the presentation that I have, since much of it has been discussed earlier, what I would like to do is just kind of summarize what our thoughts are.

Senator HECHT. Since you have come a long way, you get a little bit extra, you see.

Mr. McQUIVEY. Thank you. Basically, the Desert National Wildlife Range was established by Executive Order 1936. The Air Force bombing range was established 4 years later in 1940. As a result of World War II, there was an emergency proclamation/declaration that established the area for use by the military between 1942 and 1952.

Since 1952, to the present, the overlapping jurisdiction on that portion of the game range that is used by the Air Force has been conducted by several public land orders, land withdrawals and Executive orders. Since 1976, that document that has allowed concurrent use, there has been a memorandum of understanding.

We feel that the memorandum of understanding has worked very well to allow the military use of that portion of the game range and still allow the primary use to be management for desert big horn sheep. One part of the memorandum of understanding, in fact the way it starts out, it states that the Department of the Interior Fish and Wildlife Service has primary jurisdiction over lands within the Desert National Wildlife Range in accordance with Executive Order 7373, dated May 20, 1936, and Public Land Order 4079, dated August 26, 1966.

We feel that the proposed bill—S. 2657—changes that jurisdiction and gives the Air Force prime use of that concurrent land area. We would suggest that the bill, the wording in the bill be changed to have the Desert National Wildlife Range be retained for primary use by the Fish and Wildlife Service or else that the bill include the current memorandum of understanding as part of the wording of the bill.

The second area of concern that we have is the withdrawal of some 89,000 acres in the vicinity of the Groom Mountain Range. Our agency as well as other State agencies in Nevada carefully reviewed and provided meaningful comment on the environmental impact statement for the Nellis range withdrawal which was initiated in 1979 and completed in May 1981. Our agency did not oppose the continued withdrawal of the Nellis Air Force range as displayed in the EIS, so long as the integrity of the Desert National Wildlife Range was not jeopardized.

We were somewhat dismayed to learn, in 1983, that an extension of the existing range was being proposed by the U.S. Air Force and had been under consideration since at least November 1981, only 6 months after the completion of the EIS. We do not believe that keeping a proposal of this nature out of the public eye is an appropriate way for the U.S. Air Force to conduct business, particularly with respect to the doctrine of public trust.

Our agency certainly cannot argue as to the needs of the Groom Range by the U.S. Air Force for security purposes, since that issue is outside our realm of expertise. We do believe, however, that if the Federal Government feels strongly enough to close the area to the residents of this State, they should also be willing to offset the losses through mitigation.

Basically, the concern I had with some of the earlier testimony was that the Air Force is negotiating with miners, ranchers, and other land users within the Groom Range, and yet they maintain that the Air Force was not responsible for any mitigation for the loss of recreational use. And I really do not understand the difference between the Air Force willing to negotiate with the mining operators and the livestock operators and not willing to negotiate with the loss of recreational use. That is something I think needs to be addressed.

Again, I thank you for the opportunity to provide this public comment and I certainly hope you will consider our comments in your deliberations.

[The prepared statement of Mr. McQuivey follows:]

STATE OF NEVADA
DEPARTMENT OF WILDLIFE
P.O. BOX 10678
RENO, NEVADA 89520-0022

PRESENTATION TO HR 4932/S 2657

Mr. Chairman and Members of the Committee:

My name is Bob McQuivey and I represent the Nevada State Department of Wildlife. On behalf of our agency and the public which we serve, I would like to express our appreciation to this committee for providing the opportunity for public input on an issue which is of paramount importance and significance to Nevadans.

I would like to focus my comments this morning on two major items associated with House Bill Number 4932. The first issue of concern is the wording of the bill for that portion of the Desert National Wildlife Refuge which is used in common for the maintenance and perpetuation of desert bighorn sheep and for the military activities of the U.S. Air Force. The bill states that the refuge will continue to be managed under the National Wildlife System Administration Act of 1966 except to the extent rendered necessary by national defense. It is the statement relative to national defense on page 2 in addition to the reinforcement on pages 21 and 22 which gives the Secretary of the Air Force exclusive jurisdiction over the management of the lands for military purposes that is of primary concern to our agency and the public.

The Desert National Wildlife Refuge was established by Presidential Order in 1936 for the primary purpose of protecting and enhancing desert bighorn sheep. The area continues to be a stronghold for this magnificent and very important species as it currently supports approximately 40 percent of the bighorn sheep populations in Nevada. Not only is the desert bighorn sheep the Nevada state animal, but its value as a game species to the hunting public is evidenced by the fact that three individual clubs in Nevada raise annually, through donations, some $45,000 which is provided to the Department to assist in bighorn sheep management programs. You may also be interested to know that one hunter last year paid $67,500 for a single Nevada bighorn sheep tag which is authorized for annual auction.

The Nellis Bombing and Gunnery Range was also established by Executive Order, but not until 1940, four years after the establishment of the refuge. Because of the impending war, President Franklin D. Roosevelt in May of 1941 signed Proclamation Number 2487 which declared an unlimited national emergency. Seven months later Executive Order 9019 was signed by the President which provided for overlapping jurisdiction between the U.S. Air Force and the U.S. Fish and Wildlife Service. Although several other executive and public land orders followed shortly thereafter, it is important to note that all of the orders contained the following provision:

> "The jurisdiction granted by this order shall cease at the expiration of the six month period following the termination of the unlimited national emergency declared by Proclamation Number 2487 of May 27, 1941. Thereupon,

> jurisdiction over the lands hereby referred shall be vested in the Department of the Interior, and any other Department or agency of the federal government according to their respective interests then of record."

Knowing that exclusive jurisdiction of the refuge lands would revert to the U.S. Fish and Wildlife Service at the expiration of the national emergency proclamation on October 28, 1952, the U.S. Air Force entered into a cooperative agreement with the U.S. Department of the Interior on July 16, 1951. An amended version of that agreement allowed continued use of the refuge by the military.

Upon the pending termination of the MOU in 1961, the U.S. Air Force made a bid to the Congress during the 1960 session in the form of House Bill Number 10402. Hearings were held by the House Committee on Interior and Insular Affairs at that time to address many of the same concerns which are at issue today. Prior to the passage of the withdrawal bill in 1961, most of the major conflicts were resolved in the form of signed memorandums of understanding between the U.S. Air Force and the U.S. Department of the Interior in addition to a MOU between the U.S. Air Force and the Nevada State Department of Wildlife. That land withdrawal expired in 1976 and was replaced with an updated memorandum of understanding between the U.S. Air Force and the Department of Interior, a MOU which is still in effect today. That MOU provides for primary jurisdiction of the area by the U.S. Fish and Wildlife Service in addition to insuring our agency and the public that bighorn sheep management and recreational hunting opportunities will continue to be emphasized as part of the land use plan.

It is our belief that management of the desert bighorn sheep on the Desert National Wildlife Refuge should continue to be the primary land use activity with allowances for compatible military activity coordinated through the use of the existing MOU. Furthermore, we would recommend that the wording in the bill be made compatible with the existing MOU which states: The Department of the Interior, Fish and Wildlife Service has primary jurisdiction over lands within the Desert National Wildlife Range in accordance with Executive Order 7373 dated May 20, 1936, and Public Land Order 4079 dated August 26, 1966. Wording such as that expressed above would serve to assure the public that wildlife resources are not taking a backseat to other land uses. The bill under consideration today should mandate that the existing MOU remain in full force and effect for the duration of the land withdrawal order.

The second major issue which is of concern to our agency and the citizens of Nevada relates to the proposed withdrawal of some 89,000 acres in the vicinity of the Groom Mountain Range. Our agency, as well as other state agencies in Nevada, carefully reviewed and provided meaningful comment on the environmental impact statement for the Nellis Range withdrawal which was initiated in 1979 and completed in May of 1981. Our agency did not oppose the continued withdrawal of the Nellis Air Force Range as displayed in the EIS, so long as the integrity of the Desert National Wildlife Range was not jeopardized. We were somewhat dismayed to learn, in 1983, that an extension of the existing range was being proposed by the U.S. Air Force and had been under consideration since at least November of 1981, only six months after the completion of the EIS. We do not believe that keeping a proposal of this nature out of the public eye is an appropriate way for the U.S. Air Force to conduct business, particularly with respect to the doctrine of public trust.

Our agency certainly cannot argue as to the needs of the Groom Range by the U.S. Air Force for security purposes since that issue is outside our realm of expertise. We do believe, however, that if the federal government feels strongly enough to close the area to the residents of this state, they should also be willing to offset the losses through mitigation. The area provides 140 square miles of habitat for mule deer, mountain lions, chukar partridge, valley quail, rabbits, doves, and a variety of nongame birds and animals. The area has also supported furbearer trapping activities in the past and has been identified through the planning process as a prime bighorn sheep reintroduction site.

Our concerns relative to the recreational losses associated with wildlife within the Groom Range as well as throughout other portions of the Nellis Bombing Range is compounded when one considers that Nevada is the fastest growing state in the nation. Additional people in future years will necessarily result in additional demands for recreational opportunities. We would therefore request that as a means of offsetting these losses, the U.S. Air Force be required to compensate the State of Nevada by means of mitigation.

Our recommendations on potential mitigative measures associated with in-kind replacement include:

1. The possibility of opening other portions of the Nellis Bombing Range for controlled recreational hunting on a limited and closely monitored basis.
2. Provide the necessary funding for the select purchase of private property by the state in an attempt to enlarge existing wildlife management areas or to create new ones.
3. Provide the necessary funding for a water development program on adjacent public land areas to increase the distribution and abundance of wildlife populations of various species, especially bighorn sheep, Gambel's quail, and chukar partridge. Our best estimate at this time for sufficient funding to support water development and acquire the most significant private lands with the best potential for wildlife habitat development is 1.5 million dollars. We sincerely request your due consideration of mitigation in this amount to offset the wildlife associated recreational loss of the 89,000 acres on the Groom Range.

Again, I appreciate the opportunity to appear before this committee and sincerely hope you will give our comment all due consideration.

Senator HECHT. We will ask Mr. Rittenhouse—we did ask him and they will respond to those questions.

Mr. MCQUIVEY. What Mr. Rittenhouse said was that the U.S. Air Force was not responsible for mitigation; it was the Bureau of Land Management. That was his response. Again, I feel that if the U.S. Air Force is responsible for mitigation to the mining industry, to the livestock industry and to other land uses in that particular area, they should also be responsibe to the loss of recreational use.

Basically, until last summer there was recreational use. We had hunting, hiking, all types of activity on the public domain as administered by the Bureau of Land Management. Since that area has been closed by the Air Force, we no longer have that recreational opportunity.

[Subsequent to the hearing the Air Force supplied the following information:]

Public land withdrawal laws make no provisions for compensation when public land is withdrawn for a federal agency. Compensation that the Department of the Air Force is making is to private individuals that have a legal right in real property that is within the withdrawn lands. It is the Congress that is empowered to compensate the State of Nevada and not the Departments of the Air Force or Interior.

Senator HECHT. Let us hear Mr. William Reffalt.

STATEMENT OF WILLIAM C. REFFALT, PROGRAM DIRECTOR, NATIONAL WILDLIFE REFUGES, THE WILDERNESS SOCIETY

Mr. REFFALT. Thank you. My name is Bill Reffalt. I am program director for National Wildlife Refuges at the Wilderness Society. I thank you for the opportunity to appear and express the views of the society on this series of bills.

I would point out that I apparently misunderstood the bills before the committee and my testimony carries S. 2656 in its title and also in some of the calculations that I have put in the bill. I will just summarize my testimony and ask that it be included in the record.

Senator HECHT. It will be included, your entire testimony.

Mr. REFFALT. Thank you. The proposed bills before you today, as written and supported by the administration, seek to modify existing laws and the balanced uses, jurisdictions and responsibilities of other Federal agencies and, thereby, pose a serious threat to nationally significant wildlife resources and public land benefits. The Wilderness Society opposes the bills as they are currently drafted.

The issues raised in these bills are complex and potentially far reaching. The total land area involved exceeds 7.5 million acres in five states. Two of the bills directly affect national wildlife refuges. As a representative of the TWS, I testified recently before the House Subcommittee on Public Lands and National Parks regarding H.R. 4932, a companion bill to S. 2657. I have attached a copy of my testimony on that bill to this testimony and will not attempt to repeat the several concerns raised in that particular bill. I would answer any questions that you may have on that.

As examples of the precedential and the foreboding nature of these bills, the provisions in each bill that deal with decontamination are worthy of special attention. These sections would, in effect, permit the various military agencies to forego most, if not all, decontamination work for most of duration of the 25-year withdrawal period.

The military would then make an economic assessment of the situation and if the Secretary of the Interior felt the costs were too high, he would be empowered to allow indefinite continuation of the military withdrawals. Even if the Secretaries decide to recommend decontamination, if the Congress declines to appropriate the necessary funds, the military withdrawals and the level of contamination would be allowed to continue.

These provisions are implicit amendments of several existing acts of Congress, including the National Wildlife Refuge System Administration Act, the Engle Act, the Federal Land Policy and Management Act, and possibly the Resource Conservation Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act.

In addition, the use of congressional power to reserve more than 8.5 million gallons of water per day in the States of Alaska and New Mexico represents a possible infringement on state water laws that deserves careful consideration and a full disclosure of need.

The two bills that would affect withdrawals in Alaska contain provisions that remove the lands from operation of the Alaska Native Claims Settlement Act and the Alaska Statehood Act, and although we have not had time to really review that situation carefully, we simply believe that this raises additional questions, since both of those acts make provisions for military withdrawals in areas in Alaska.

In the case of S. 2659, withdrawing lands in Arizona for Luke Air Force range, we would raise similar arguments. In addition, we seriously question the need for or the desirability of having the military granted a land withdrawal and given exclusive jurisdiction when their use is confined to air space use only. Certainly, the cooperative agreement or memorandum of understanding process can provide for public safety, has been providing for public safety in the Cabeza Prieta National Wildlife Refuge without such a withdrawal and grant of authority.

We do not oppose the necessary and justifiable use of Federal lands to achieve those purposes, national defense purposes. However, this series of bills dealing with over 7.5 million acres of land and numerous public resources seem to go well beyond the basic needs of the military to provide for training.

We believe these bills must be amended. Attached to my testimony is a draft bill that I believe would offer a better approach to the matter. I request that the committee consider this approach as it moves forward in considering these bills. Our goal is simply to achieve a status quo for these areas that permits the military units to complete their training and weapons testing missions but does not infringe unnecessarily upon the jurisdictions, authorities and responsibilities of other Federal or State agencies in conducting natural resource management programs.

I thank you, again, for allowing me to testify and I would be happy to answer any questions you may have.

[The prepared statement of Mr. Reffalt follows:]

THE WILDERNESS SOCIETY

FOUNDED IN 1935

STATEMENT OF WILLIAM C. REFFALT, REPRESENTING THE WILDERNESS SOCIETY BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES WITH REGARD TO S.2656, S. 2657, S.2658, S.2659, S.2660, S.2661, and S.2662, A SERIES OF BILLS WITHDRAWING LANDS FOR USE BY THE DEPARTMENTS WITHIN THE DEFENSE DEPARTMENT

AUGUST 8, 1984

Mr. Chairman, members of the Committee, thank you for providing this opportunity to express the views of The Wilderness Society on these proposed pieces of legislation. My name is Bill Reffalt and I am the Program Director for National Wildlife Refuges at The Wilderness Society (TWS). The Wilderness Society is a non-profit conservation organization founded in 1935 and dedicated to the proper care and management of this nation's public lands and to the preservation of wilderness. Currently TWS's membership exceeds 105,000 people nationwide.

The proposed bills before you today, as written and supported by the Administration, seek to modify existing laws and the balanced uses, jurisdictions and responsibilities of other federal agencies and, thereby pose a serious threat to nationally significant wildlife resources and public land benefits. TWS opposes the bills as they are currently drafted.

The issues raised by these bills are complex and potentially far reaching. The total land area involved exceeds 7.5 million acres in five States. Two of the bills directly effect National Wildlife Refuges. As a representative of TWS, I testified recently before the House Subcommittee on Public Lands and National Parks regarding H.R.4932, a companion bill to S. 2657. I have attached a copy of my testimony on that bill to this testimony and will not attempt to repeat the several concerns raised by that particular bill.

However, I believe that the gravity of the issues raised in that single bill, as well as the quantity of issues where there was disagreement or a lack of certainity between parties illustrates why we believe these bills should not be lightly considered or passed without detailed analyses and further public comment. As examples of the precedential and foreboding nature of these bills, the provisions in each bill that deal with decontamination are worthy of special attention. Those sections would, in effect, permit the various military agencies to forego most, if not all, decontamination work for most of the duration of the 25 year withdrawal. The military would then make an economic assessment of the situation and if the Secretary of the Interior felt the cost were too high, he would be empowered to allow indefinite continuation of the military withdrawals. Even if the Secretaries decide to recommend

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decontamination, if the Congress declines to appropriate the necessary funds, the military withdrawals and the level of contamination would be allowed to continue. These provisions are implicit amendments of several existing Acts of Congress including the National Wildlife Refuge System Administration Act, the Engle Act, the Federal Land Policy and Management Act, possibly the Resource Conservation Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act. In addition, the use of Congressional power to reserve more than 8.5 million gallons of water per day in the States of Alaska and New Mexico represents a possible infringement on State water laws that deserves careful consideration and a full disclosure of need.

The two bills that would effect withdrawals in Alaska contain provisions to remove the lands from operation of the Alaska Native Claims Settlement Act and the Alaska Statehood Act. Given the complexity of those Acts and the Alaska lands situation in general, it would seem desirable to have further analysis of the needs and possible complications that could arise from such an after-the-fact exemption of these military areas from the carefully drawn provisions of those previous laws.

I've mentioned the problems presented by the Nellis Range in Nevada. My attached testimony provides the specific objections we raise. In the case of S.2659, withdrawing lands in Arizona for the Luke Air Force Range, we would raise similar arguments. In addition we seriously question the need for or desirability of having the military granted a land withdrawal and given exclusive jurisdiction when their use is confined to air space use only. Certainly, the cooperative agreement or memorandum of understanding process can provide for public safety in the Cabeza Prieta National Wildlife Refuge without such a withdrawal and grant of authority.

Mr. Chairman, these are but examples of issues that this series of bills raises without adequate disclosure of facts, without benefit of a comprehensive Environmental Impact Statement (in fact, several of the withdrawals would be completed without having an area specific EIS). TWS believes that the military training missions are an important aspect of our national defense. We do not oppose the necessary and justifiable use of federal lands to achieve those purposes. However, this series of bills, dealing with over 7.5 million acres of lands and numerous public resources seems to go well beyond the basic needs of the military to provide for training. Some of the bills intrude on National Wildlife Refuges, they all grant considerable authority to the military commanders and they withdraw public resources without offering justification or holding public hearings. Further, they would implicitly amend a number of federal statutes designed to assure a balance of public safety, uses and benefits from the nation's public lands.

We believe these bills must be amended. Attached to my testimony before the House of Representatives subcommittee is a draft bill that I believe would offer a better approach to the matter. I request that this committee consider that approach as it moves forward in considering these bills. Our principal concerns relate to the Congressional grant of exclusive jurisdiction, the subordination of other agency authorities to a broadly stated "national defense needs" clause, the grants of authority over natural resources in the areas, and the previously mentioned matter of decontamination and withdrawal extensions without Congressional involvement. Our goal is to achieve a basic status quo for these areas that permits the military units to complete their training and weapons testing missions but does not infringe unnecessarily upon the jurisdictions, authorities and responsibilities of other federal or state agencies in conducting natural resource management programs.

Again, Mr. Chairman, thank you for providing this opportunity to state the views of The Wilderness Society. I would be happy to answer questions if time permits.

THE WILDERNESS SOCIETY

FOUNDED IN 1935

STATEMENT OF WILLIAM C. REFFALT, REPRESENTING THE WILDERNESS SOCIETY BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND NATIONAL PARKS OF THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, WITH REGARD TO H.R. 4832, A BILL WITHDRAWING LANDS IN NEVADA FOR USE BY THE DEPARTMENT OF THE AIR FORCE, AUGUST 6, 1984

Mr. Chairman, members of the Committee, thank you for providing this opportunity to express the views of The Wilderness Society on this proposed legislation. My name is Bill Reffalt and I am the Program Director for National Wildlife Refuges at The Wilderness Society (TWS). The Wilderness Society is a non-profit conservation organization founded in 1935 and dedicated to the proper care and management of this nation's public lands and to the preservation of wilderness. Today, TWS's nationwide membership exceeds 105,000.

The proposed legislation before you today, as written and supported by the Administration, threatens to modify a long-standing balance of agency uses, jurisdictions and responsibilities and, thereby poses a serious threat to nationally significant wildlife resources and public land benefits. TWS opposes the legislation as it is currently drafted.

The issues raised by this bill are complex and potentially far reaching, however they are not new. Beginning with the onset of World War II, the War Department was granted use of relatively small tracts of land in southern Nevada as a gunnery and pilot training area. Portions of those tracts overlaid lands in the Desert National Wildlife Range (DNWR) established in 1936 for the preservation of the Nelson's desert bighorn sheep and their associated natural environment. After the war, instead of relinquishing those tracts as originally intended and agreed, the military pursued a course of mission expansion and range enlargement that has today resulted in over 3,000,000 acres of lands being used to support pilot training and weapons testing in that area.

A recent example of the continuing agressive nature of the military enlargement program includes the "taking" early this year of nearly 90,000 acres of public lands previously outside the training range boundaries utilizing methods normally considered appropriate only in cases of national military emergency. Another example is the current attempt by the Air Force to establish an exclusive air space zone over that portion of the DNWR currently outside the training range. Military use in the restricted airspace would include operation of aircraft down to zero feet above ground level in half of the new area and down to 100 feet above ground level in the remaining portion of the zone. The effects of these operations on the refuge have not been addressed, no EIS has been completed, and little consultation with the Fish and Wildlife Service has been conducted.

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These examples illustrate a serious lack of concern by the Air Force for the many other important and legitimate uses of this nation's public lands. Viewed in that light, the draft bill contains Congressional delegations of jurisdiction over the lands and resources in the Nellis Air Force Range that we believe will result in loss of the many public values and benefits that have traditionally been associated with the refuge and other areas within the range boundaries. Such losses are not desirable or necessary.

I have attached to my testimony an alternative bill that I believe would provide for the continued military uses of the Nellis Range while also continuing the important work and public benefits associated with the refuge and the public lands of that area. I urge the Committee to consider this alternative as it moves forward in its work.

The primary goal we seek is to maintain the status quo for the management of this area. It is our opinion that the military can achieve its mission for the Nellis Range while allowing the Bureau of Land Management (BLM) and the U.S. Fish and Wildlife Service (FWS) to achieve their respective missions as has been the case over the past four decades. Military uses of the lands should remain under the coordination of the Air Force. Lands in the DNWR should remain under the primary jurisdiction of the FWS and the remaining lands should be jointly administered by the BLM and the Air Force. The bill we have drafted would accomplish all of these things.

In contrast to this maintenance of status quo, the Administration bill asks this Committee to create a new Congressional withdrawal and to place exclusive jurisdiction for management in the Air Force. Management under the Refuge Administration Act and the BLM Organic Act would be subordinated to the generic "national defense purposes" clause in the bill. In essence, the Congress is asked to disestablish that portion of the DNWR overlain by the Nellis Range as well as any other previously established natural resource units such as the Wild Horse Range under the jurisdiction of the BLM. Such a grant of power is excessive and unnecessary to allow the military to meet its established mission for these lands.

Another major grant of power contained in the Administration bill would result from the provisions of Section 4. In effect, this section permits the Air Force to allow the contamination in the Nellis Range to accumulate over the 25 year withdrawal period. Future withdrawals of the area for military purposes would become a matter of the appropriations process of the Congress rather than the considered judgment of this Committee. In fact, the bill provides that if the Congress declines to appropriate money for decontamination, then the area remains subject to the provisions of this bill indefinitely. These provisions are an implicit amendment of the provisions of the Engle Act of 1958 and the BLM Organic Act of 1976 which require the military withdrawals to be periodically reviewed and specifically reauthorized by this Committee. All such provisions should be deleted from the bill.

Mr. Chairman, when the military issued an Environmental Impact Statement (EIS) in 1981 which analyzed the possible future withdrawal of the Nellis Range and the authorization of military uses of the lands there was no indication of the changes which are contained in the current Administration drafted bill. Also, there was no indication in that EIS that the military mission accomplishment required such one-sided changes to the existing jurisdictional arrangements. Increases in the level of mission activities have been adequately accomodated within the current arrangements. The EIS contemplates further increases yet it does not indicate any expected impairment to Air Force activities resulting from the jurisdictions and activities of the other agencies. That EIS also contemplates the establishment of Wilderness as proposed by the FWS in 1971 for major portions of the DNWR and, still, there was no indication that the accomplishment of the training or testing mission would suffer in any way. All of this strongly suggests that the Administration's bill will result in an excessive grant of authority that goes far beyond any identified need.

The bill I have attached to this testimony recognizes that the Nellis mission is important and can be continued without the sacrifice of other national goals. That bill would also designate as wilderness that portion of the DNWR and approximately 61,000 acres of adjacent public lands found to fully qualify for such designation by the FWS in the wilderness study completed in 1971. The total area to be designated as wilderness is approximately 1,431,542 acres but it was designed by FWS so as to accomodate the military operations and a proposed alternative energy transportation corridor along highway 93.

Wilderness designation is especially appropriate for this area because it represents a unique assemblage of plants, animals, physiography, climate and other environmental features that is not currently represented in the National Wilderness Preservation System. In addition, the plants and animals found in this proposed wilderness are species that are specially adapted to the climax ecological conditions found on the refuge. In other words, wilderness is the best management approach for the ecosystems represented on the DNWR.

The refuge contains physiographic and faunal representations of both the Great Basin and Mohave Desert biomes. No other single unit of our federal protected land management systems duplicates that representation. The refuge contains between 10% and 20% of the desert bighorn sheep found in the U.S. Further, it contains between 40% and 50% of the Nelson's desert bighorn sheep found on earth. Other important elements of the ecosystem include the cougar, bobcat, ring-tailed cat, golden eagles, falcons, and the desert tortoise among many others. In all, the refuge hosts about 53 mammal species, 250 bird species, 31 reptiles and amphibians, and 1000 plant species. There are important paleontological, archeological and cultural resources found in the areas to be designated as wilderness. Each year about 15,000 people hike, horseback ride, and otherwise use the refuge lands to gain a rewarding wilderness experience.

Mr. Chairman, the values and benefits represented in the areas to be designated wilderness by the bill we have drafted go well beyond these brief descriptions. The FWS Wilderness Study best describes those values in a comprehensive manner. I believe the Committee has copies of that document. The two public hearings held in Nevada that have requested public opinions regarding the FWS wilderness proposal have shown that the majority of the public support that concept. While it is true that the hearings were held a number of years ago, in 1971 and 1974, I believe that the sentiment would remain unchanged or would be even more favorable today as the amount of pristine desert areas has declined substantially in the past decade.

I will conclude my remarks by reiterating my firm belief that the status quo is the best approach to assuring the maximum net public benefit from this large area of public lands. Further, the refuge wilderness proposal has been under consideration by this committee for over 10 years and I believe that now is the time to finalize it and assure the public that a unique desert area will be protected for all time. Finally, Mr. Chairman, I commend you and the Committee for giving careful consideration to the issues raised by this proposal. I know that there are several more military withdrawal bills that will come before this Committee in the future. Each of them will require a similar specific analysis and opportunity for public comment.

Thank you Mr. Chairman. If time permits I would be happy to respond to any questions that the Committee members may have.

A BILL

To authorize and continue use by the Department of the Air Force and other military departments and the Department of Energy on certain public lands within Clark, Nye and Lincoln Counties, Nevada; to designate wilderness within the Desert National Wildlife Range and on certain adjacent lands, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That, (a) The Secretary of the Interior (Secretary) is authorized and directed in consultation with the Secretary of the Air Force (DAF) to utilize existing authorities granted in the Federal Land Policy and Management Act (FLPMA, PL. 94-579) to withdraw lands within the State of Nevada commonly known as the Nellis Air Force Range (NAFR), and make provision for use by the DAF, provided, that: (i) such withdrawals shall not be for a period greater than 20 years; and (ii) such withdrawals will recognize and allow the continuation of such public uses of the withdrawn lands as are consistent with achieving the Nellis Range training mission and the necessary security and public safety directly incident thereto; and (iii) the portion of the Nellis Air Force Range which overlays lands within the Desert National Wildlife Range (DNWR) shall only be made available for use by the DAF pursuant to the authorities of the National Wildlife Refuge System Administration Act (80 Stat. 929, as amended; 16 U.S.C. 668 dd et seq.) and only to the extent currently granted in the March 11, 1976 Memorandum of Understanding between the U.S. Fish and Wildlife Service (FWS) and the DAF.

(b) Lands made available for use by DAF pursuant to this Act may be withdrawn from all forms of appropriation under the public land laws.

(c) Uses which may be permitted or continued by the withdrawals include use as a training area for aerial gunnery, electronic warfare, tactical maneuvering and air support, and armament and high hazard testing.

Section 102. (a) The Secretary shall have the continued responsibility for management of the lands withdrawn pursuant to this Act, except to the extent required by DAF to support its training and testing missions on the NAFR and to insure public and other human safety and security.

(b) The DAF shall have jurisdiction over the military property, facilities and other improvements as are reasonably required to properly conduct its mission in the NAFR. DAF may authorize use of the NAFR by other military departments and agencies of the Department of Defense, and the Department of Energy, as appropriate, following consultation with the Secretary.

(c) DAF shall take all necessary precautions to prevent and suppress brush and range fires occurring within and adjacent to the NAFR lands as a result of military activities.

Section 103. (a) The Secretary shall have continued authority to manage the lands withdrawn pursuant to Section 101. Except for those lands within the boundaries of the DNWR, all withdrawn lands shall be managed pursuant to the authorities of the Federal Land Policy and Management Act (PL 94-579).

(b) The Secretary shall consult with DAF regarding the potential multiple uses on BLM lands within the NAFR and shall not permit any such uses that would conflict with the missions of the NAFR or that would unreasonably compromise the necessary security and public safety requirements on the NAFR.

(c) The Secretary shall develop a resource management plan and implementation program for management of BLM lands within the NAFR. Among other things, the plan should detail a fire management program and its implementation including provisions for the transfer of funds from DAF to BLM for costs of fire suppression in the NAFR and in accordance with the requirements of Section 102(c) and according to sound fire management practices. The resource management plan is to be implemented by means of a specific MOU between the Secretary and DAF.

(d) The lands and natural resources in the Desert NWR shall be managed in accordance with and pursuant to the National Wildlife Refuge System Administration Act (80 Stat. 929, 16 U.S.C. 668 dd et. seq.), Executive Order 7373, Public Land Order 4079 and the other federal laws applicable to the National Wildlife Refuge System and the Desert NWR. Continued military use of lands within the Desert NWR shall be governed by the terms and conditions, descriptions, including land descriptions, and stipulations contained in the March 11, 1976 memorandum of understanding (MOU) between the U.S. Fish and Wildlife Service and the Department of the Air Force, subject: Air Force Operations on the Desert National Wildlife Range in Nevada. Further, that MOU is hereby ratified and shall remain in force and effect until the date upon which the DAF officially terminates its uses of that portion of the NAFR described within the MOU under Section 106 or 107 of this Act. Provided, however, that the MOU may be amended upon mutual consent of the Secretary and DAF, subject to concurrence by the Congress.

Section 104. This Act and the withdrawals made pursuant to this Act are not intended to:

(a) reserve or otherwise withdraw water for use in connection with the uses identified in Section 101 of this Act, or

(b) Affect water rights acquired by the DAF or other components of the Department of Defense prior to the enactment of this Act for use in connection with military uses of the NAFR.

(c) Modify in any way the provisions of PL 85-337.

Section 105. (a) At least three years prior to the expiration of the withdrawals made pursuant to this Act, DAF, in consultation with the Secretary, shall undertake a thorough and detailed survey in the NAFR of the existing estimated level of explosives, toxic or other hazardous material contamination, both surface and subsurface:

(i) The DAF shall provide a detailed report to the Secretary and the Congress on the residual level of contamination for each type of hazardous substance or material involved and for each reasonably discreet area of the NAFR;

(ii) The DAF shall describe the type and costs of the programs that have been conducted annually and periodically for decontamination purposes, including the unavoidable environmental disruptions that would occur if a 98%-100% level of decontamination were achieved for each type of substance and area described in subsection (i) above;

(iii) Throughout the duration of the withdrawals made pursuant to this Act DAF shall maintain an annual decontamination program sufficient to assure at least 90% surface decontamination throughout the NAFR and 100% surface decontamination in the principal training ground impact zones, and;

(iv) Throughout the duration of the withdrawals made pursuant to this Act, DAF shall undertake studies to determine decontamination methods and costs for each major category of hazardous material used on the NAFR and shall report its findings and recommendations to the Congress beginning five years after the date of the passage of this Act and at the end of each subsequent five year period thereafter shall file an updated report to reflect the new findings and technologies developed since the previous report.

Section 106. DAF may, at any time after the passage of this Act, request the Secretary to terminate all or any part of any withdrawal made or permits for use issues pursuant to this Act, or DAF may terminate of any or all uses of any portion of the NAFR and the Secretary shall make appropriate modifications in the withdrawals, permits and MOUs.

Section 107. At least one year prior to the termination dates of any withdrawals made pursuant to this Act, DAF shall notify the Secretary and the Congress regarding its need for continued use of the NAFR. The Secretary shall take appropriate action to draft legislation for reauthorization as required by DAF and agreed to by the Secretary and shall submit that legislation no later than six months prior to the termination date along with his/her recommendations regarding that proposed legislation.

Section 108. (a) DAF is hereby authorized and directed to provide financial and other assistance to the Department of the Interior, U.S. FWS and BLM, for the purpose of planning and conducting multi-year studies on the impacts of DAF activities and operations on the fish, wildlife and other natural resources in the NAFR, particularly the desert bighorn sheep and all components of its ecosystem and including the biological communities commonly associated with the desert valleys within the NAFR.

(b) Reports containing the findings and recommendations resulting from such biological and ecological studies shall be included and made a part of the report required in subsection 105(a)(i) and the Secretary shall: (i) consider appropriate modifications to the MOU's governing management on the NAFR so as to best accomplish the goal of minimum detrimental impacts on the fish, wildlife and habitats of the NAFR resulting from NAFR mission fulfillment; and (ii) make appropriate recommendations to the Congress, considering the information and recommendations in these reports, regarding future extensions and authorizations for use of NAFR.

Section 109. (a) The functions of the Secretary under this Act may be delegated pursuant to provisions of the National Wildlife Refuge System Administration Act or the Federal Land Policy and Management Act, as applicable.

(b) The functions of the Secretary of Air Force pursuant to this Act may be delegated.

TITLE II

Section 201. In accordance with Section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1132 (c)), certain lands in the Desert National Wildlife Range, Nevada, which comprise about 1,431,542 acres and which are depicted on a map entitled "Desert Wilderness Proposal" and dated October 1971, (modified as of 8/84) are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of the Interior.

Section 202. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committee of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Provided, however, that correction of clerical and typographical errors in such description and map may be made.

Section 203. The Wilderness area designated by this Act shall be known as the "Desert National Wildlife Range Wilderness" and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, and reference in such provisions to the Secretary shall be deemed to refer to the Secretary of the Interior.

Section 204. The Secretary shall manage those lands designated as wilderness pursuant to this Title that are outside the present boundary of the Desert NWR in a manner that is fully consistent and compatible with the purposes for which the refuge was established.

Senator HECHT. Thank you very much. Mr. Rittenhouse and Mr. Edwards both assured this committee that this bill would in no way affect the agreement—2657, I am sorry, would in no way affect the agreement outlined in the memo of understanding. Do you still feel a need to change the language? Any of you can respond to that.

Mr. McQUIVEY. Yes; I believe that it can be very simply resolved in putting that language in the bill, saying that the memorandum of understanding becomes part of the legislation for the next 25-year withdrawal. If the Air Force is willing to abide by what they said in that they like the MOU and it has worked very well, let's make it a part of the bill.

Senator HECHT. Does the position of the Nevada State Department of Wildlife reflect the position of the Governor in the State?

Mr. McQUIVEY. Yes, sir.

Senator HECHT. Thank you.

Mr. REFFALT. If I could, I would like to also speak to that. There are a couple of things that cause us concern with regard to that. The memorandum of understanding, the 1966 memorandum of understanding in section 15 of that MOU has a clause which causes the MOU to self-destruct at the time at which a withdrawal of these lands is made.

Now, this bill, S. 2657, would withdraw the lands and so you have got an interesting catch-22 in that the bill says that the MOU may remain in effect, not that it shall, but that it may remain in effect, and yet the MOU itself says that if a withdrawal is made on these lands, this MOU is null and void.

So for that reason, we strongly support the idea that the MOU be made a factor in the operation of the military program on the refuge. The bill that I have attached to my testimony sets forth a way of doing that and still granting the military withdrawals.

Senator HECHT. Because all of you were very brief and summarized your statements, we greatly appreciate it, if you have any last thoughts that you forgot to put in, I will be glad to let you put them in the record before we adjourn.

Mr. REFFALT. I have one other thing. We also strongly support the establishment of wilderness in the Desert National Wildlife Range as proposed by the Fish and Wildlife Service in 1971 and we believe that a similar process should be looked at in Arizona on the Cabeza Prieta and a review of that wilderness proposal and possible establishment at the time these bills are passed.

Senator HECHT. The wilderness areas will be part of the coming attractions. I would like to remind everyone that the record will remain open until August 31, 1984. If there is no further testimony, the hearing is adjourned.

[Whereupon, at 4:15 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

National Audubon Society
NATIONAL CAPITAL OFFICE
645 PENNSYLVANIA AVENUE, S.E., WASHINGTON, D.C. 20003 (202) 547-9009

TESTIMONY OF AMOS S. ENO
DIRECTOR, WILDLIFE PROGRAMS
NATIONAL AUDUBON SOCIETY

SUBMITTED TO THE SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER
COMMITTEE ON
ENERGY AND NATURAL RESOURCES

AUGUST 7, 1984

AMERICANS COMMITTED TO CONSERVATION
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Mr. Chairman and members of the Committee, I am Amos S. Eno, Director of Wildlife Programs for the National Audubon Society. I appear before you today on behalf of the Society and its over 500,000 members.

I am here to voice the Society's strong opposition to a bill which, if passed, could have a severe impact on the fate of the Desert National Wildlife Refuge (NWR) by making it subject to the overriding authority of the military. Important wildlife and wilderness values are at stake in this issue. In addition, passage of S. 2657 would set a precedent for several similar pending bills, and would have ramifications for at least two other refuges that must operate with military withdrawn lands.

Desert is the largest national wildlife refuge in the lower 48 states, encompassing over 1.5 million acres. The refuge is not only vast but the scenery is spectacular -- with habitat ranging from the burning desert floor to snowy mountains close to 10,000 feet high. Ponderosa and bristle-cone pines dominate the upper elevations; unique joshua trees stand out below.

Desert NWR was established in 1936 by Executive Order of President Franklin Roosevelt, to protect remnant populations of true desert bighorn sheep (Ovis canadensis mexicanus), [as distinguished from the Nelson's bighorn (Ovis canadensis nelsoni)]. This species of bighorn was then close to extinction, and is yet suffering a general decline throughout its range. Today Desert protects the largest existing population of these majestic animals. Bobcats, mountain lions, mule deer, antelope and kit fox are also found on the refuge. Some 227 species of birds have been spotted, most notably desert species such as the roadrunner, sage sparrow, and Gambel's quail. In addition, Desert's Corn Creek Springs Pond provides a haven for one of only two existing populations of the Pahrump killifish, an endangered species.

Four years after establishing Desert NWR, President Roosevelt issued another Executive Order which was to have a significant impact on the refuge. Roosevelt's emergency war-time withdrawal of lands in southeastern Nevada created the Las Vegas Bombing and Gunnery Range, now known as the Nellis Air Force Range. The Nellis Range currently extends over more than 3 million acres.

The South Nellis Range envelops roughly the western two-thirds -- 826,000 acres -- of Desert NWR. This area is completely closed to public use. The eastern part of the Refuge is visited annually by 10,000 to 15,000 people, many of whom come to hike or camp in the backcountry areas, where at high elevations bighorn sheep can be readily seen. Over 1.3 million acres of the Refuge have been proposed for wilderness designation, including most of the eastern (non-withdrawn) portion, and the higher elevations of the withdrawn lands. These areas have been managed as de-facto wilderness by the Fish and Wildlife Service (FWS) since 1975, pending Congressional action.

The original Executive Order which established the military withdrawal stated the intention to return these lands to their pre-war status and purposes. However, the Air Force succeeded in having that language deleted from subsequent authorizing acts. The last Congressional authorization of Air Force use of the Nellis Range lands expired in 1976.

As the mission of the Air Force has changed over the years since World War II, military activity on the Refuge has intensified. An Air Combat Maneuvering Instrumentation (ACMI) Range was installed in the western sector in 1975. The ACMI Range, part of the new wave of electronic warfare projects, draws a lot of business, and the use of air space over the refuge has increased dramatically. Substantial supersonic activity is associated with mock aircraft duels conducted in the ACM area. In 1977 the Air Force reported the occurrence of about 5000 sonic booms. A significant portion -- about 16 percent -- of Desert's low-elevation lands (below 3600 feet) are used as target sites.

A 1976 Memorandum of Understanding (MOU) between the Air Force and FWS is the most recent documentation of the two agencies' respective jurisdictional authorities and management rights. Most importantly, FWS is given "primary jurisdiction" over all lands in the Desert NWR. In addition, the MOU requires: (1) altitude restrictions for military flights over the withdrawn refuge lands -- to a minimum of 2000 feet above ground level, "within the limits of practicability"; (2) storage or removal of all abandoned Air Force materials, ordnance, and facilities; and (3) Air Force clearance for all FWS access to the western part of the refuge.

We think it is important to emphasize that while FWS may legally have primary jurisdiction, for all practical purposes the Air Force is currently running the show.

Perhaps most frustrating for the refuge manager, all management activities must be scheduled through the Air Force, sometimes as far as a year in advance. Any time refuge personnel need to go into the western portion of the refuge, whether on foot or by helicopter, they must ask permission. When they need to run a routine census or check leaky water hole pipes they must take what they time slot they can get -- which is more often than not a weekend. Unfortunately, natural resources management does not readily fit into neat Prussian time slots. Bad weather can interfere with scheduled helicopter runs, emergencies can arise, and FWS -- which supposedly has primary authority over its lands -- can only sit and wait for a go-ahead from the Air Force.

Altitude restrictions are not always adhered to, as the Air Force does not always find it "practical" to fly above 2000 feet. On the eastern half of the refuge, for which the MOU guidelines do not apply, FAA regulations allow aircraft to fly down to 100 feet above ground level. Refuge personnel and visitors have been "buzzed" numerous times by over-exuberant flight jockeys and trainees.

Clean up of target sites is haphazard. While the Air Force makes attempts at cleaning up from its target bombing and strafing operations, the withdrawn refuge lands are littered with ordnance and abandoned targets. What's more, target practice is not always limited to approved sites. A major bighorn water hole has been strafed three or four times, and the Corn Creek Field Station was once bombed by our pinpoint navigators -- a dubious public relations move if there ever was one.

Our point is simple. The Air Force already has more than enough operating room. The bill before you would give the military "exclusive jurisdiction" over the lands withdrawn for its use. That's the real kicker. S. 2657 also would allow the Secretary of the Air Force to determine the economic and practical feasibility of cleaning up the mess after another 25 years of military use -- and would allow the lands to automatically remain under his exclusive jurisdiction if he decides he can't (or won't) clean them up. Thus 826,000 acres of national wildlife refuge lands would be effectively removed from the refuge system without any further ado. In short, Mr. Chairman, FWS might as well pack up and go home now if this bill goes through.

We are not advocating that the Air Force pack up and leave, although in the best of all worlds, we might wish that they would. Rather, we believe that -- with a few modifications -- the basic status quo of the situation is a workable compromise and should be maintained. Our suggestions are based on the assumption that the FWS be allowed to operate with continued legal and practical primary jurisdiction over its lands, including that area used by the Air Force.

First of all, we imagine that the Air Force budget is big enough to permit some extra expenditure of funds to better clean up the refuge portion of the

Nellis Range. These lands should be maintained in such a way that they could, at least theoretically, be returned to public use at some point in the future. Irreversible contamination of this area should not be permitted simply because the Air Force has no plans for ever giving up the land.

Secondly, we urge the Air Force to make good on its promise in the MOU to furnish FWS with aircraft for refuge management operations. Because the refuge is so vast and the terrain so rugged, most water hole inspections and wildlife censuses are carried out from the air. A more cooperative spirit from the Air Force seems to be in order, since it is indeed using refuge lands free of rent and, apparently, free of any responsibility for ravaging them. This spirit of cooperation should also extend to scheduling FWS use of airspace.

Third, we suggest that the MOU be amended to require the Air Force to cooperate and help fund a research program that will monitor and evaluate present and long-term effects of noise on bighorn sheep and other wildlife. The Environmental Impact Statement which was written when the land withdrawal first expired suggested that such a project be initiated. Almost no data is currently available to assess the impact that stress from noise may impose on both the population and individual level. The refuge bighorn population appears to be stable now, but there is no assurance that in the not-so-distant future the human impact on their habitat may not act synergistically with the stress of a disease outbreak or water shortage to push them into a decline. The Sikes Act of 1960 provides a mechanism for cooperative wildlife management efforts between the military and resource agencies. Again, such cooperation on the part of the Air Force seems to us a small price to pay for use of two-thirds of a national wildlife refuge.

And finally, although it is beyond the purview of this Committee, we want to again point out that extremely low Air Force flights over the eastern, non-withdrawn portion of the refuge are permitted by current FAA regulations. We hope that such activity will be curtailed, especially since this area is the only relatively untouched portion of the refuge. A 1974 Federal Aviation Administration Advisory lists National Wildlife Refuges as typical noise-sensitive areas, in which low-altitude or supersonic activity should be avoided. Being buzzed by a fighter plane in the backcountry is not most people's idea of a wilderness experience. The Fish and Wildlife Service has officially complained, to no avail, about the extension of permissible flight altitudes in the Military Operating Area which overlays the refuge.

In conclusion, we urge that members of this Committee take this opportunity, as they consider the best way to deal with the situation at hand, to designate as wilderness those refuge lands which were contained in President Ford's wilderness proposal almost 10 years ago. There was strong public support for such a move then, as there is now, and the fragile natural resources at Desert NWR could certainly use your help -- now, more than ever.

NATIONAL WILDLIFE FEDERATION, 1412 Sixteenth Street, N.W., Washington, D.C. 20036 (202) 797-6842
Office of the Executive Vice President

August 13, 1984

The Honorable Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
360 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

Enclosed are statements of the National Wildlife Federation and Nevada Wildlife Federation on H.R. 4932; a bill to withdraw public lands within Nellis Air Force Range. On behalf of the National Wildlife Federation and our affiliated organization in Nevada, I ask that you include these statements and this letter as part of the record of the August 8, 1984 hearing held by your Subcommittee on S. 2657; legislation similar to H.R. 4932.

Thank you.

Sincerely,

Jay D. Hair

JAY D. HAIR

JDH:bd

Enclosures

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

STATEMENT OF THE NATIONAL WILDLIFE FEDERATION BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND NATIONAL PARKS OF THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS ON H.R. 4932 -- WITHDRAWAL OF PUBLIC LANDS WITHIN THE NELLIS AIR FORCE RANGE

August 6, 1984

Mr. Chairman, I am Lynn A. Greenwalt, a Vice President of the National Wildlife Federation and head of our Resources Conservation Department.

The National Wildlife Federation (NWF) is the world's largest conservation-education organization with over 4 million members and supporters and 51 affiliated organizations representing the states and territories. Because of our interest in ensuring the wise use and sound management of this nation's natural resources, NWF has had a long history of involvement in issues affecting our wildlife and public lands. We have a particularly strong commitment to protecting the integrity of the National Wildlife Refuge System.

The proposed legislation before us today, H.R. 4932, would seriously jeopardize the integrity of one important unit of the refuge system, Desert National Wildlife Range (NWR), and would adversely affect sound natural resource management of other public lands in Nevada.

Desert NWR was established in 1936 to protect the desert bighorn sheep. In addition to providing essential habitat for the largest extant population of this species, Desert NWR supports over 300 other vertebrate species. More than half the refuge (826,000 acres) also is encompassed within the Nellis Air Force Range. Air Force use of Desert NWR for military air-to-ground weapons training began in World War II and continues today. However, these activities, which have been restricted to 154,080 acres not utilized by the bighorn sheep, have always been secondary to the needs of wildlife conservation, which prompted establishment of the refuge. Management of that portion of Desert NWR that lies within the Nellis Range has been conducted pursuant to Memoranda of Understanding between the Fish and Wildlife Service and Air Force. These interagency agreements have consistently placed wildlife conservation needs above all other uses of the refuge lands.

Because the interagency agreements have provided for adequate military use of the Desert NWR without compromising the primary wildlife purposes of these lands, NWF believes there is little or no justification for H.R. 4932. We recommend, therefore, that this Subcommittee and the Congress not act favorably on the proposed legislation. If this Subcommittee decides, notwithstanding our recommendation and that of others testifying today, to approve legislation to withdraw refuge and BLM lands for the Nellis Air Force Range, then we urge that the bill be modified in a number of critically important areas.

First, this Subcommittee should strongly reject the attempt made by H.R. 4932 to subordinate wildlife conservation on Desert NWR -- the primary purpose of the refuge -- to national defense uses. Specifically, although Section 1(a) of the bill, which withdraws Desert NWR lands for Air Force use, states that the National Wildlife Refuge System Administration Act of 1966 will continue to govern management of the withdrawn refuge lands, that assurance is conditioned by the proviso: "*... except to the extent rendered necessary by national defense.*" (Emphasis added). Again in Section 2(b), the bill states that Desert NWR shall be managed by the Secretary of Interior in accordance with the Refuge Administration Act, but then completely undermines this grant of management authority with the condition "*... except to the extent that other uses are required for purposes of national defense.*" (Emphasis added).

The exceptions in Sections 1(a) and 2(b) of H.R. 4932 provide the Air Force with unlimited discretion to determine what activities on Desert NWR are needed for national defense purposes. It is difficult to imagine any Air Force use of the withdrawn refuge lands that could not be construed as necessary for national defense. The result is that H.R. 4932 unacceptably subordinates the primary purpose of Desert NWR -- wildlife conservation -- to all military activities required for national defense purposes, regardless of whether these activities are compatible with the purpose for which the refuge was established. Therefore, NWF urges this Subcommittee to amend H.R. 4932 to maintain the balance between wildlife conservation and national defense needs that currently exists under the 1976 Memorandum of Understanding between the Fish and Wildlife Service and Air Force.

Second, Section 2(a) of H.R. 4932 further undermines balanced use not only of the Desert NWR but also of the BLM lands withdrawn by granting the Air Force "*exclusive jurisdiction over the management of the lands for military purposes*..." (Emphasis added). Management of withdrawn BLM lands for multiple uses is made "*secondary to the military use of the lands and shall be authorized only with the concurrence of the Secretary of the Air Force*." (Emphasis added). In this way H.R. 4932 unnecessarily and undesirably changes the present purposes and uses of the withdrawn lands and shifts responsibility for the affected lands away from the Department of the Interior. NWF urges this Subcommittee to re-write H.R. 4932 to reflect the current arrangement established by the Memoranda of Understanding between the Air Force and the Fish and Wildlife Service and the BLM. Such a revision to the bill is essential to allow the Air Force to meet its military training needs while providing for sound natural resource management and wildlife conservation.

Third, the final environmental impact statement prepared by the Bureau of Land Management and the Department of the Air Force for withdrawal of Nellis AFR does not address expansion of air-to-ground activities beyond that already in use. We believe, therefore, that the use of Desert NWR for these purposes should be restricted by this legislation to the 154,080 acres outlined in the March 11, 1976, Memorandum of Understanding between the Air Force and the Fish and Wildlife Service.

Finally, the language in Section [illegible] of H.R. 4932 pertaining to decontamination of the withdrawn lands is unacceptable. The bill would release the Air Force from a 12-year-old self-imposed directive (Air Force Manual 50-46) to decontaminate the surface of the withdrawn lands every five years. The Air Force currently conducts this surface decontamination using established funds. But H.R. 4932 would permit explosive or toxic debris to accumulate indefinitely even though the Air Force already indicates it is difficult to find and remove the hazardous material that accumulates over five years. Without periodic clearance, it is likely that even greater quantities of dangerous contamination will result as eroding soil and regenerating vegetation mask the presence of unexploded ordnance and other hazardous substances. Moreover, because the bill only requires decontamination if the Air Force and Interior Department agree that it is practicable and economically feasible and if Congress does not decide to withdraw funds for that purpose, it is very probable that the Desert NWR and BLM lands withdrawn will never be relinquished. Therefore, we encourage this Subcommittee to require continuation of current decontamination policies and to require further that the Air Force develop techniques for resolving sub-surface contamination.

In addition to our concerns about the management of the Desert NWR and other withdrawn lands, NWF strongly supports the Nevada Wildlife Federation's position that the U.S. Air Force should provide compensation for the loss of wildlife and recreational resources to the people of Nevada. We urge this Subcommittee to make the addition of any acreage to the Nellis Air Force Range contingent upon the Air Force's reaching a mutually satisfactory agreement with the State of Nevada to provide such compensatory mitigation.

Thank you for this opportunity to present our views.

NEVADA WILDLIFE FEDERATION, INC.
An Affiliate of the National Wildlife Federation
820 EAST SAHARA AVENUE / LAS VEGAS, NEVADA 89104

August 6th. Statement
House Public Lands and Nat. Parks Subcommittee

Chairman Seiberling, and distinguished members of this subcommittee, it is indeed an honor to appear before you today. I am now midway through the third year of my Presidency of the Nevada Wildlife Federation. The issues we must address today are significant enough to demand my first trip to Washington. The testimony today is to expand upon our letter of July 18, 1984.

If one examines a map of Nevada, the presence of the military and the Department of Energy in our state is evident. Nevadans have given, and are giving much for National Defense. In addition to almost the entire southern one-third of our state for the Bombing Range and the Test Site, consider the large withdrawls for the Hawthorne Munitions Site and the Fallon Naval Air Station. Add to these the proposed Naval Super-Sonic Operations Area and the proposed 2500 square mile Gandy Range S.O.A. for the Air Force. Now add to these the additional 89,000 acres to be added to the Nellis Bombing and Gunnery Range. Nevadans throw up their arms and say, "enough is enough". What can the Department of Defense do for our state to off-set these withdrawls? This most recent request is the straw that broke the camel's back.

Prior to my moving to Nevada in 1967 I was an officer in the Air Force, and stationed in Michigan. At that time, and in that location, the Air Force was a good neighbor to the citizens of Michigan. The Air Force cooperated actively in wildlife management programs, and assisted the Michigan Conservation Department in the winter feeding of yarded white-tail deer.

The sportsmen and conservationists of Nevada do not look at the military as good neighbors. We are tired of the manner in which they do things. Take for example the Gandy Range S.O.A. The proposed S.O.A. would take up 2500 square miles of air space over eastern Elko and White Pine Counties of Nevada. The Environmental Impact Statement states 80 to 100 sonic booms per day reaching the ground. The area includes some of our finest antelope habitat, prime deer winter range, and completely surrounds the BLM Goshute Peak Wilderness Study Area. The Draft E.I.S. was filed only in the Ely and Elko, Nevada libraries. No sportsman's or conservation group was supplied with a copy. No public hearings were scheduled. We stumbled on this E.I.S. about one week before the comment deadline. Fortunatley, our four legislators in Washington (who didn't know about it either) were successful in getting an extension on the comment deadline, and two public hearings.

The Cedar Springs area of Lower Stone Cabin Valley on the northwest edge of the Bombing Range is another example. When I moved to Nevada in 1967, and until three years ago, this area provided hunting for antelope, deer, and chukar partridge on a seasonal basis. This was through an understanding of the D.O.D. and the Nevada Department of Wildlife to not enforce the Range Boundary. Three years ago the area was locked, and public recreation was stopped. It's our own fault, but nobody complained at the time.

Consider, too, the U.S. Air Force use of a helicopter to establish a hunting camp in a roadless area in Nye County in Central Nevada. Fortunately, the Nevada Department of Wildlife was successful in arresting these violators in the act. This was total disrespect for Nevada's laws, and its wildlife resource. Think of the bombing of the concentration mill at the Sheehan family mine on Groom Mountain. (See the August issue of the voice of the Nevada Wildlife Federation, The Western Sportsman, which I have brought for you.) Consider the violations by Air Force personnel for the hunting of mule deer and antelope on the Bombing Range lands that are closed to hunting. I submit the following as evidence of the behavior of these Air Force personnel, and their lack of respect for the wildlife of Nevada.

During munitions cleanup operations 1, 2, and 4 conducted from May 1979 through March 1981 on the Nellis Bombing and Gunnery Ranges 74, 75, and 76, not less than fourteen enlisted personnel and one officer participated in the unlawful killing of protected big game animals. Through admissions of these airmen at least four mule deer and twelve antelope are known to have been killed. Six airmen in plea negotiations with the state of Nevada agreed to pay a total of $6250 in fines and $1400 in civil penalities. There are numerous other military personnel that assisted in the field dressing, butchering, cooking, and consumption of the animals.

Eighteen months ago, at the thirty-third annual meeting of the Nevada Wildlife Federation, we hosted a panel discussion between the BLM, USAF, USF&WS, and the Nevada Department of Wildlife. The topic of that panel was "Wildlife Management on Department of Defense Lands".. With all due respect, the USAF participant (Col. Robert Herculson) has been a gentleman in all our dealings with the Air Force. Promising statements made in the panel discussion, by the Air Force, about cooperative wildlife management have failed to materialize.

The current BLM program to manage wild horses on the Bombing Range (the CRMP process started last Friday, Aug. 3rd.) is not because of a sudden desire to cooperate in management on the part of the Air Force. It is because of past non-management that has allowed overpopulation of wild horses to occur. Because of an unusually dry spring this year, the range has deteriorated. The Air Force is now concerned about collisions that may occur between aircraft and carrion birds that will be attracted by the dying and decomposing horses.

It has been four months since the Nevada Wildlife Federation met with Nellis A.F.B. personnel in the Range Operations Hdq. at Nellis. The subject of that meeting was the D.O.D.'s forceful closing to public use 89,000 acres, including theGroom Mountain Range, that is needed for security for Area 51 of the Test Site and Bombing Range. We discussed mitigation for the loss of access, but to date nothing has come of that meeting.

The Nevada Wildlife Federation understands the need for additional security, and would have supported the withdrawl, given half a chance. We do have several concerns, however.

The first concern is the manner in which the Air Force has gone ahead and locked up our public lands, without Congressional approval to do so. This maneuver appears to be highly illegal. It would be an interesting court case to challenge the guards on the access road. The public relations people at Nellis must rate a zero on this issue.

Our second concern is the impact to the wildlife of our state, and its citizens' loss of the opportunity to utilize the land and wildlife for recreation. In light of the fact that our state is one of the fastest growing in the nation, if not the fastest, this land withdrawl puts an enormous strain on our limited number of outdoor recreation areas. The loss of an additional 89,000 acres can not be supported without some mitigation for this lost recreational land and its wildlife values.

The Groom Mountain Range, within the 89,000 acres to be withdrawn, is habitat for trophy mule deer, chukar, quail, and many species of non-game wildlife. There are three major springs and several seeps that support the wildlife and livestock that use the range. The area has been identified by the Nevada Department of Wildlife as an excellent release site for bighorn sheep.

If the Department of Defense needs this land for security, they should mitigate its withdrawl to the citizens of Nevada with grants and programs to offset the loss of these areas. Wildlife losses should be mitigated by wildlife gains, and recreational losses by recreational gains.

We believe the actual mitigations should be determined by the Governor of Nevada and the State's Director of the Department of Wildlife. If this were the case, the mitigations would be in the best interest of the citizens of Nevada, and their wildlife resources.

Our third concern is that the language of the bill would reverse the 1976 Memorandum of Understanding between the U.S. Fish and Wildlfife Service and the U.S.A.F. In effect, this would place the management of the Desert National Wildlife Range under the direct control of the Air Force, rather than the U.S.F.&W.S. We strongly recommend that this language be changed to keep the current status of control, and to guarantee a workable management of the renewable natural resources found within this vast portion of our state.

Thank you for your kind attention to this report.

John A. Leitch,

President

JEFF BINGAMAN
NEW MEXICO

United States Senate
WASHINGTON, D.C. 20510

August 23, 1984

The Honorable Malcolm Wallop
Room 206
Russell Senate Office Building
Washington, D.C. 20510

Dear Senator:

I am pleased to submit the enclosed statement regarding S.2658 for the record of the hearings you held August 8 before the Subcommittee on Public Lands and Reserved Water. As you already know, the issues involved in this bill are very important to the citizens of the State of New Mexico.

At the present time, significant concerns of both citizens and state officials remain to be addressed. Two individuals have been especially helpful in alerting me to some of the objections to the bill: the New Mexico State Engineer, Mr. S.E. Reynolds, (505-827-6175) and Mr. Bob Jones of the New Mexico Cattle Grower's Association (505-963-2845). I am sure these gentlemen would be happy to provide you and your staff with further information regarding some of the issues New Mexicans are concerned about in this land withdrawal.

Again, I thank you for letting me comment on this legislation. I know you and your committee will do a fine job of balancing New Mexico's needs against the Army's. If I can be of any further assistance on this matter please do not hesitate to contact me.

Sincerely,

Jeff Bingaman

Jeff Bingaman
United States Senator

JB/kbm
Enclosure

Jeff Bingaman

STATEMENT OF SENATOR JEFF BINGAMAN
On Senate Bill S.2658, a bill to withdraw land on the McGregor Range
in Otero County, New Mexico for Army use.
Hearings before the Subcommittee on Public Lands and Reserved Water
August 8, 1984

Mr. Chairman.

Thank you for the opportunity to comment on S.2658, a bill to withdraw from the public domain approximately 608,000 acres of land on the McGregor Range in Otero County, New Mexico. This bill extends for 25 years Army control of land originally withdrawn in 1957. As I understand it, the co-use agreement between the Army and the Bureau of Land Management would be unchanged, allowing BLM-supervised grazing to continue.

The use of public lands is always controversial in New Mexico and this bill is no exception. It has generated concern among both citizen groups and public officials in the state.

The first concern is in the area of water rights, an issue of great importance in New Mexico and other western states with scarce water resources. While the amount of water reserved in this bill may be small, 17 acre feet of water per day, or 6205 acre feet per year, the principles involved are significant. By petitioning Congress for specially reserved water rights, the Army is trying to bypass the established state procedures for granting those rights. These state procedures have a long history and well-established rationale; if we are going to bypass them we should do so carefully and only with good cause. The state application process forces water users to document and justify their water needs while it protects applicants and other users from actions which might impair their water rights. Such a process is essential if the needs and rights of users are to be protected and balanced against the limited resources available.

New Mexico State Engineer Steve Reynolds, who is responsible for water resource control in the state, has expressed several concerns about the bill. First, in the past the Army has applied for, bought or leased its water rights in the region just as other water users do. Indeed, Mr. Reynolds informed me that Ft. Bliss just made 30 applications to his office for approximately 30,000 acre feet of water per year, 5,000 of which are in the Tularosa Basin, near McGregor. Second, he alerted me to the dangers of bypassing the state and giving the Army priority in its water rights. The state's process protects all users, including the Army, from salinity and other dangers which can make water resources unusable. Granting these reserve rights defeats that protection.

When considering whether to give the Army reserve water rights we must be sure that its needs justify departing from past practice and bypassing standard procedures. The water rights application process was designed to protect users and assure an equitable distribution of the state's scarce water resources. the most equitable distribution of scarce water resources possible. As yet, the Army has not demonstrated a significant justification for exempting it from that process.

The second area of concern questions whether the Army needs all the land being withdrawn under S.2568. I am concerned that farmers, ranchers and others in Otero County may not be getting the fullest possible use of these lands. The perception exists in New Mexico that the Army does not really need all the land on the McGregor Range. Many believe that a large portion of the land, particularly that north of Highway 506, could be safely released for multi-use purposes without interfering with national defense priorities. While the Army's need for this land may well be legitimate, I urge the Committee to carefully consider the issue before agreeing to the withdrawal. With the large area of New Mexico already controlled by the military we must do our best to balance the needs of the local population against the needs of the Army.

Mr. Chairman, I again thank you for this opportunity to discuss some of my concerns about this bill. I am sure you and the members of the Committee will do your best to consider these issues as you take action on this bill.

PAUL LAXALT
NEVADA

COMMITTEE ON APPROPRIATIONS
COMMITTEE ON JUDICIARY

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1984 AUG 17 AM 8 43

August 13, 1984

Dear Malcolm:

Enclosed is a letter from a constituent in Fallon, Nevada, regarding the proposed withdrawal of lands in S. 2662 on which a hearing was held on August 8.

I would appreciate consideration of a field hearing for the public as has been requested in the enclosed letter.

Thank you for your time on this matter.

Sincerely,

Paul

PAUL LAXALT
U.S. Senator

PL:kmw

Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands
and Reserved Water
SD-308
Washington, DC 20510

Enclosure

July 23, 1984

Senator Paul Laxalt
300 Booth St.
Reno, Nevada 89520

Dear Senator:

It seems reasonable that the public should have an opportunity to comment on Senate Bill 2662, which, if enacted, would result in the withdrawal, by the U. S. Navy, of 21,000 acres of Churchill County's public domain land in the Lone Rock (Carson Sink) area.

Please consider this letter to be a formal request for such a hearing--to be held in Fallon.

Respectfully,

Dick Holmes

Dick Holmes, Chairman
Concerned Rural Nevadans
Box 629
Fallon, Nevada 89406

Wants Public Hearing

Lahontan Valley News 8-1-84

Editor-Lahontan Valley News
July 23, 1984
Senator Paul Laxalt and Senator Chic Hecht
300 Booth St.
Reno, Nevada 89520

Dear Senator:

It seems reasonable that the public should have an opportunity to comment on Senate Bill 2662, which, if enacted, would result in the withdrawal, by the U.S. Navy, of 21,000 acres of Churchill County's public domain land in the Lone Rock (Carson Sink) area.

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Respectfully,
Dick Holmes, Chairman
Concerned Rural Nevadans
Fallon

place in file

PAUL LAXALT
NEVADA

COMMITTEE ON APPROPRIATIONS
COMMITTEE ON JUDICIARY

United States Senate
WASHINGTON, D.C. 20510

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August 13, 1984

Dear Mr. Holmes:

Thank you for your letter referring to S. 2662, a bill which would withdraw and reserve for the Department of the Navy certain public lands for the Bravo-20 Bombing Range in Churchill County.

I have contacted the Subcommittee on Public Lands and Reserved Water about your request. As you know, the preliminary hearings were held on the 8th of August. I have requested that a hearing be considered at Fallon and will be in touch with you when I have a response.

Once again, thank you for your letter on this matter. Please feel free to write me again on this or any matter of concern to you.

Sincerely,

Paul Laxalt

PAUL LAXALT
U.S. Senator

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